Title 9. Family Law

Chapter IV. Division of Children and Family Services, Department of Human Services

Subchapter A. Generally

Part 40. Policy and Procedure Manual

Subpart 1. Division of Children and Family Services Acronym Guide and Definitions

9 CAR § 40-101. Acronyms.

As used in this part:

(1) "AA" means Alcoholics Anonymous;

(2) "AAL" means attorney ad litem;

(3) "AC" means alternative compliance;

(4) "ACF" means Administration for Children and Families;

(5) "ACH" means Arkansas Children's Hospital;

(6) "ACIC" means Arkansas Crime Information Center;

(7) "ACYF" means Administration of Children, Youth, and Families;

(8) "AD" means Area Director;

(9) "ADC" means the Department of Correction;

(10) "ADE" means the Department of Education;

(11) "ADJ" means adjudication;

(12) "AFMC" means Arkansas Foundation for Medical Care;

(13) "AHELP" Arkansas Healthy Employee Lifestyle Program;

(14) "AOC" means Administrative Office of the Courts;

(15) "APPLA" means another planned permanent living arrangement;

(16) "APS" means Adult Protective Services;

(17) "APSR" means annual progress and service report;

(18) "AR BEST" means Arkansas Building Effective Services for Trauma;

(19) "ARCCC" means Arkansas Creating Connections for Children;

(20) "ASAP" means Adolescent Sexual Adjustment Program;

(21) "ASN" means Arkansas Support Network;

(22) "ASP" means the Division of Arkansas State Police;

(23) "ASVSP" means Arkansas State Vehicle Safety Program;

(24) "ATR" means Access to Recovery;

(25) "CAC" means child advocacy center;

(26) "CACD" means Crimes Against Children Division;

(27) "The CALL" means Children of Arkansas Loved for a Lifetime;

(28) "CANS" means Child and Adolescent Needs and Strengths;

(29) "CASA" means court-appointed special advocate;

(30) "CASSP" means Child and Adolescent Service System Program;

(31) "CB" means Children's Bureau;

(32) "CBC" means criminal background check;

(33) "CCC" means Care Coordinating Council;

(34) "CCDF" means Child Care Development Fund;

(35) "CCRC" means Child Case Review Committee;

(36) "CES" means community engagement specialist;

(37) "CFM" means contract finance management;

(38) "CFSR" means children and family services review;

(39) "CHA" means comprehensive health assessment;

(40) "CHRIS" means Children's Reporting Information System;

(41) "CMHC" means community mental health center;

(42) "CMS" means Children's Medical Services;

(43) "COBRA" means Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. No. 99-272;

(44) "CON" means certificate of need;

(45) "CPS" means Child Protective Services;

(46) "CQI" means continuous quality improvement;

(47) "CWAL" means child welfare agency licensing;

(48) "CWARB" means the Child Welfare Agency Review Board;

(49) "CWLA" means the Child Welfare League of America;

(50) "DAAS" means the Division of Aging and Adult Services;

(51) "DBHS" means the Division of Behavioral Health Sciences;

(52) "DCCECE" means the Division of Child Care and Early Childhood Education;

(53) "DCFS" means the Division of Children and Family Services;

(54) "DCO" means the Division of County Operations;

(55) "DCSNS" means the Division of Community Service and Nonprofit Support (formally known as Division of Volunteerism);

(56) "DDS" means the Division of Developmental Disabilities Services;

(57) "DHS" means the Department of Human Services;

(58) "DMS" means the Division of Medical Services;

(59) "DN" means dependency-neglect;

(60) "DOB" means date of birth;

(61) "DR" means differential response;

(62) "DSB" means the Division of Services for the Blind;

(63) "DUI" means driving under the influence;

(64) "DV" means domestic violence;

(65) "DWI" means driving while intoxicated;

(66) "DYS" means the Division of Youth Services;

(67) "EAP" means Employee Assistance Program;

(68) "EI" means early intervention;

(69) "EPSDT" means early and periodic screening, diagnosis, and treatment;

(70) "FAPE" means free appropriate public education;

(71) "FAST" means Family Advocacy and Support Tool;

(72) "FBI" means the Federal Bureau of Investigation;

(73) "FC" means foster care;

(74) "FERPA" means the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g;

(75) "FFSS" means Foster Family Support System;

(76) "FINS" means family in need of services;

(77) "FMLA" means the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq.;

(78) "FSPP" means Family Services Policy and Procedure Manual;

(79) "FSW" means Family Service Worker;

(80) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191;

(81) "HSS" means health services specialist;

(82) "HZA" means Hornby Zeller Associates;

(83) "ICAMA" means Interstate Compact on Adoption and Medical Assistance, Arkansas Code § 9-29-301;

(84) "ICJ" means Interstate Compact for Juveniles, Arkansas Code § 9-29-401;

(85) "ICPC" means Interstate Compact on Placement of Children, Arkansas Code § 9-29-201 et seq.;

(86) "ICWA" means Indian Child Welfare Act of 1978, 25 U.S.C. § 1901 et seq.;

(87) "IDEA" means Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., Division of Children and Family Services FSPP;

(88) "IEP" means individual education plan;

(89) "IFS" means intensive family services;

(90) "IFSP" means individualized family service plan;

(91) "IHC" means in-home consultation (visit);

(92) "IM" means information memorandum;

(93) "IRIS" means Incident Report Information System;

(94) "LEA" means local education authority;

(95) "LLE" means local law enforcement;

(96) "MAPS" means multi-agency plan of service;

(97) "MCVAR" means mutual consent voluntary adoption registry;

(98) "MDT" means multidisciplinary team;

(99) "MEPA" means the Multiethnic Placement Act of 1994, Pub. L. No. 103-382;

(100) “MOA” means memorandum of agreement;

(101) “MOU” means memorandum of understanding;

(102) “MSW” means Master of Social Work;

(103) “NA” means Narcotics Anonymous;

(104) “Nonstate CBC” means federal criminal background check;

(105) “NRE” means no reasonable efforts;

(106) “NST” means new staff training;

(107) “OCC” means Office of Chief Counsel;

(108) “OCSE” means Office of Child Support Enforcement;

(109) “ODT” means organizational development and training;

(110) “OFM” means Office of Fiscal Management;

(111) “OHR” means Office of Human Resources;

(112) “OJT” means on-the-job training;

(113) “OT” means occupational therapy or overtime;

(114) “PA” means program assistant;

(115) “PC” means probable cause;

(116) “PCP” means primary care physician;

(117) “PI” means performance indicator or program instruction;

(118) “PIE” means provider invoice entry;

(119) “PIP” means program improvement plan;

(120) “PPES” means Personnel Performance Evaluation System;

(121) “PPH” means permanency planning hearing;

(122) “PRFC” means person responsible for care;

(123) “PRT” means permanency roundtable;

(124) “PS” means protective services;

(125) “QA” means Quality Assurance (Unit);

(126) “QSPR” means quality services peer review;

(127) “RH” means review hearing;

(128) “RO” means regional office;

(129) “RR” means railroad benefits;

(130) "RW" means Resource Worker

(131) "SACWIS" means State Automated Child Welfare Information System;

(132) "SAFE" means Structured Analysis Family Evaluation;

(133) "SDM" means structured decision making;

(134) "SGR" means state general revenue;

(135) "SIJS" means special immigrant juvenile status;

(136) "SNAP" means Supplemental Nutrition Assistance Program;

(137) "SOC" means system of care;

(138) "SPU" means Specialized Placement Unit;

(139) "SS" means supportive services;

(140) "SSA" means Social Security Administration;

(141) "SSBG" means Social Services Block Grant;

(142) "SSI" means Supplemental Security Insurance;

(143) "SSN" means Social Security number;

(144) "TANF" means Temporary Assistance for Needy Families;

(145) "TDM" means Team Decision Making;

(146) "TDT" means therapeutic day treatment;

(147) "TEA" means Transitional Employment Assistance;

(148) "TFC" means therapeutic foster care;

(149) "TPR" means termination of parental rights;

(150) "TR" means travel reimbursement;

(151) "TYS" means Transitional Youth Services;

(152) "UAMS PACE" means University of Arkansas for Medical Sciences Project for Adolescent and Child Evaluation;

(153) "UTL" means unable to locate; and

(154) "VA" means veterans benefits.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-102. Definitions.

As used in this part:

(1) "Abandoned infant" means a juvenile less than nine (9) months of age and whose parent, guardian, or custodian left the child alone or in the possession of another person without identifying information or with an expression of intent by words, actions, or omissions not to return for the infant;

(2)(A) "Abandonment" means a failure of the parent to provide reasonable support for a juvenile and to maintain regular contact with the juvenile through statement or contact when:

(i) This failure is accompanied by an intention on the part of the parent to permit the condition to continue for an indefinite period in the future;

(ii) The failure of a parent to support or maintain regular contact with the juvenile is without just cause; or

(iii) There is an articulated intent to forego parental responsibility.

(B) "Abandonment" does not include acts or omissions of a parent toward a married minor;

(3) "Abuse" means any of the following acts or omissions by a parent, guardian, custodian, foster parent, person eighteen (18) years of age or older living in the home with a child whether related or unrelated to the child, or any person who is entrusted with the juvenile's care by a parent, guardian, custodian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, childcare facility, public or private school, a significant other of the child's parent, or any person legally responsible for the juvenile's welfare, but excluding the spouse of a minor:

(A) Extreme or repeated cruelty to a juvenile;

(B) Engaging in conduct creating a realistic and serious threat of:

(i) Death;

(ii) Permanent or temporary disfigurement; or

(iii) Impairment of any bodily organ;

(C) Injury to a juvenile's intellectual, emotional, or psychological development as evidenced by observable and substantial impairment of the juvenile's

ability to function within the juvenile's normal range of performance and behavior;

(D) Any history that is at variance with the history given;

(E) Any nonaccidental physical injury;

(F) Any of the following intentional or knowing acts, with physical injury and without justifiable cause:

(i) Throwing, kicking, burning, biting, or cutting a child;

(ii) Striking a child with a closed fist;

(iii) Shaking a child; and

(iv) Striking a child on the face or head;

(G) Any of the following intentional or knowing acts, with or without injury:

(i) Striking a child six (6) years of age or younger on the face or head;

(ii) Shaking a child three (3) years of age or younger;

(iii) Interfering with a child's breathing; and

(iv) Pinching or striking a child's genital area;

(H) **Note.** The prior list of unreasonable actions is considered illustrative and not exclusive;

(I) No unreasonable action shall be construed to permit a finding of abuse without having established the elements of abuse;

(J)(i) Abuse shall not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes or restraining or correcting the child.

(ii) The person exercising the restraint is an employee of an agency licensed or exempted from licensure under the Child Welfare Agency Licensing Act, Arkansas Code § 9-28-401 et seq.

(iii) The agency has policy and procedures regarding restraints.

(iv) No other alternative exists to control the child except for a restraint.

(v) The child is in danger of hurting himself or herself or others.

(vi) The person exercising the restraint has been trained in properly restraining children, deescalation, and conflict resolution techniques.

(vii) The restraint is for a reasonable period of time;

(K) Reasonable and moderate physical discipline inflicted by a parent or guardian shall not include any act that is likely to cause, and which does cause injury more serious than transient pain or minor temporary marks; and

(L) The age, size, and condition of the child and the location of the injury and the frequency of recurrence of injuries shall be considered when determining whether the physical discipline is reasonable or moderate;

(4) "Aggravated circumstances" means circumstances that exist when:

(A) A child has been abandoned, chronically abused, subjected to extreme or repeated cruelty, sexually abused, sexually exploited, or a determination has been or is made by a judge that there is little likelihood that services to the family will result in successful reunification;

(B) A child has been removed from the custody of the parent or guardian and placed in foster care or in the custody of another person three (3) or more times in the last fifteen (15) months; or

(C) A child or a sibling has been neglected or abused such that the abuse could endanger the life of the child;

(5)(A) "Alternative compliance" means a request for approval from the Child Welfare Agency Review Board to allow a licensee to deviate from the letter of a regulation.

(B) The licensee must demonstrate substantial compliance with the intent of the regulation.

(C) This includes, but is not limited to, regulations that govern background checks and convictions for prohibited offenses;

(6)(A) "Another planned permanent living arrangement (APPLA)" means permanency planning hearing disposition (more specifically, "authorizing a plan for another planned permanent living arrangement") for the juvenile who will not be reunited with his or her family and because another permanency plan is not in the

juvenile's best interest.

(B) Any authorization of a plan for APPLA must include a permanent planned living arrangement and address the quality of services, including, but not limited to, independent living services and a plan for supervision and nurturing the juvenile will receive.

(C) APPLA may only be selected if:

(i) The Department of Human Services has documented to the circuit court a compelling reason for determining that it would not be in the best interest of the child to follow another permanency plan;

(ii) The child is sixteen (16) years of age or older; and

(iii) The court makes a judicial determination explaining why, as of the date of the hearing, APPLA is the best permanency plan for the juvenile and the court finds compelling reasons why it continues to not be in the best interest of the juvenile to:

(a) Return home;

(b) Be placed for adoption;

(c) Be placed with a legal guardian; or

(d) Be placed with a fit and willing relative;

(7) "Caretaker" means parent, guardian, custodian, foster parent, or any person fourteen (14) years of age or older who is entrusted with a child's care by a parent, guardian, custodian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, childcare facility, public or private school, or any person legally responsible for a child's welfare;

(8) "Child" means a person who is from birth to eighteen (18) years of age;

(9) "Child" (for Title IV-E purposes) means:

(A) For the purposes of the Title IV-E foster care program, an individual:

(i) Who is in foster care under the responsibility of the Department of Human Services; and

(ii) Who meets the following age parameters:

(a) Has not attained eighteen (18) years of age; or

(b) Has attained eighteen (18) years of age but who has not attained twenty-one (21) years of age and meets any of the following conditions:

(1) Is completing secondary education or a program leading to an equivalent credential;

(2) Is enrolled in an institution which provides postsecondary or vocational education;

(3) Is participating in a program or activity designed to promote, or remove barriers to, employment;

(4) Is employed for at least eighty (80) hours per month; or

(5) Is incapable of doing any of the above described activities due to a medical condition, which incapability is supported by regularly updated information in the case plan; and

(B) For the purposes of the Title IV-E adoption or guardianship assistance program, an individual:

(i) Who is under eighteen (18) years of age and is the subject of an adoption or guardianship assistance agreement entered into prior to sixteen (16) years of age; or

(ii) Who is under the age of twenty-one (21) and is the subject of an adoption or guardianship assistance agreement entered into after the individual attained sixteen (16) years of age and meets any of the following conditions:

(a) Is completing secondary education or a program leading to an equivalent credential;

(b) Is enrolled in an institution which provides postsecondary or vocational education;

(c) Is participating in a program or activity designed to promote, or remove barriers to, employment;

(d) Is employed for at least eighty (80) hours per month; or

(e) Is incapable of doing any of the above described activities due to a medical condition;

(10)(A) "Child Abuse Hotline" means the unit maintained by the Crimes Against

Children Division, for the purpose of receiving and recording notification made pursuant to the Child Maltreatment Reporting Act.

(B) The Child Abuse Hotline:

(i) Is staffed twenty-four (24) hours per day; and

(ii) Has statewide accessibility through a toll-free telephone number;

(11)(A) "Childcare institution" means a private childcare institution, or a public childcare institution which accommodates no more than twenty-five (25) children, and is licensed by the state in which it is situated or has been approved by the agency of such state or tribal licensing authority (with respect to childcare institutions on or near Indian reservations) responsible for licensing or approval of institutions of this type as meeting the standards established for such licensing, except, in the case of a child who has attained eighteen (18) years of age, the term includes a supervised transitional living setting in which the individual is living independently.

(B) This definition must not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent;

(12) "Child maltreatment" means physical abuse, sexual abuse, emotional abuse, neglect, sexual exploitation or abandonment of a child;

(13)(A) "Child maltreatment investigation" means a fact finding assessment that occurs when an allegation of child maltreatment is received.

(B) Completion is reached when a determination is made concerning the allegations;

(14) "Court-appointed special advocate (CASA)" means a volunteer appointed by the court to advocate for the best interest of juveniles in dependency-neglect proceedings;

(15) "Custodian" means a person (not a parent or legal guardian) who stands in loco parentis to the child or an agency or institution given custody of a child through a court order;

(16) "Delinquent juvenile" means any juvenile:

(A) Ten (10) years of age or older who has committed an act other than a

traffic offense or game and fish violation, which, if the act had been committed by an adult, would subject the adult to prosecution for a felony, misdemeanor, or violation under the applicable criminal laws of this state or who has violated Arkansas Code § 5-73-119; or

(B) Any juvenile charged with capital murder or murder in the first degree, subject to extended juvenile jurisdiction;

(17) "Dependent juveniles" includes a child:

(A) Whose parent is in the custody of the Department of Human Services;

(B) Whose parent or guardian is incarcerated for a reason unrelated to the health, safety, or welfare of the child and the parent or guardian has no appropriate relative or friend willing or able to provide care for the child;

(C) Whose parent or guardian is incapacitated, whether temporarily or permanently, such that the parent or guardian cannot provide care for the juvenile and the parent or guardian has no appropriate relative or friend willing or able to provide care for the child;

(D) Whose custodial parent dies and no stand-by guardian exists;

(E) Who is an infant relinquished to the custody of the Department of Human Services for the sole purpose of adoption;

(F) Who is a safe haven baby (Safe Haven Act – 2001, Arkansas Code § 9-34-201 et seq.);

(G) Who has disrupted his or her adoption, and the adoptive parents have exhausted resources available to them; or

(H) Who has been a victim of human trafficking as a result of threats, coercion, or fraud without the knowledge of the parent;

(18) "Dependent-neglected juvenile" means any juvenile who is at substantial risk of harm as a result of the following acts or omissions to the juvenile, a sibling, or another juvenile:

(A) Abandonment;

(B) Abuse;

(C) Sexual abuse;

(D) Sexual exploitation;

(E) Neglect or parental unfitness or being present in a dwelling or structure during the manufacture of methamphetamine with the knowledge of his or her:

(i) Parent;

(ii) Guardian; or

(iii) Custodian; or

(F) Human trafficking if the parent knew or should have known the child was a victim of human trafficking as a result of:

(i) Threats;

(ii) Coercion; or

(iii) Fraud;

(19) "Deviate sexual activity" means any act of sexual gratification involving:

(A) The penetration, however slight, of the anus or mouth of one person by the penis of another person; or

(B) The penetration, however slight, of the labia majora or anus of one person by any body, member, or foreign instrument manipulated by another person;

(20)(A) "Domestic abuse" means:

(i) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; or

(ii) Any sexual conduct between family or household members, whether minors or adults, which constitutes a crime under the laws of this state.

(B) "Family or household member" means:

(i) Spouses;

(ii) Former spouses;

(iii) Parents and children;

(iv) Persons related by blood within the fourth degree of consanguinity;

(v) Any child residing in the household;

(vi) Persons who are presently or in the past resided or cohabited together; and

(vii) Persons who have or have had a child in common;

(21)(A) "Exempted from true due to religious exemption" means a determination that will be entered when the parent's decision to withhold medical treatment is based solely upon a religious belief, and the child is furnished with treatment by spiritual means alone, through prayer, in accordance with a recognized religious method of healing by an accredited practitioner.

(B) Such prohibition shall not limit the administrative or judicial authority of the state to ensure that medical services are provided to the child when the child's health requires it;

(22) "Family" means a spouse, parent, child, sibling, or a person related by consanguinity to another person;

(23) "Family in need of services" means family whose juvenile evidences behavior which includes, but is not limited to, the following:

(A) Being habitually and without justification absent from school while subject to compulsory school attendance;

(B) Being habitually disobedient to the reasonable and lawful commands of his or her parent, guardian, or custodian; or

(C) Having absented himself or herself from the juvenile's home without sufficient cause, permission, or justification;

(24) "Fast track" implies that reunification services will not be provided or will be terminated before twelve (12) months of services;

(25) "Federal adoption subsidy IV-E" means payments for a child who is categorized as IV-E (TEA/TANF, SSI-AB, or SSI-AD) at the time of placement for adoption by the Division of Children and Family Services and who meets other defined special needs characteristics if it has been documented that a reasonable effort has been made to place the child without the benefit of subsidy;

(26) "Fictive kin" means persons not related by blood, marriage, or adoption but who have a strong, positive emotional tie to the child and have a positive role in the

child's life such as:

(A) Godparents;

(B) Neighbors; or

(C) Family friends;

(27)(A) "Forcible compulsion" means any act of physical force or intimidation, or any threat, express or implied, of death, physical injury, rape, sexual abuse, or kidnapping of anyone committed against that person's will.

(B) The age, developmental stage and stature of the victim and the relationship of the victim to the assailant, as well as the threat of deprivation of affection, rights, and privileges from the victim by the assailant, shall be considered in weighing the sufficiency of the evidence to prove compulsion;

(28)(A) "Grooming" means to knowingly disseminate to a child thirteen (13) years of age or younger with or without consideration a visual or print medium depicting sexually explicit content with the purpose to entice, induce, or groom the child to engage in the following with another person:

(i) Sexual intercourse;

(ii) Sexually explicit conduct; or

(iii) Deviate sexual activity.

(B) Under this definition of grooming, "disseminate" means to allow to view, expose, furnish, present, sell, or otherwise distribute, including on an electronic device or virtual platform, and is not limited to an act that takes place in the physical presence of a child;

(29) "Guardian" means any person, agency, or institution so appointed by a court;

(30)(A) "Holistic" means a view of the family and accompanying circumstances that take into consideration the entire family.

(B) This view includes the psychological, sociological, physical, and environmental factors which influence the functioning of the family;

(31) "Home assessment" means the mutual selection process that involves several components including, but not limited to, an in-home consultation visit,

background checks, preservice training, a home study, and ongoing consultation with the prospective foster/adoptive parents to ensure that applicants meet all appropriate criteria related to both compliance and quality;

(32)(A) "Home study" means the specific interviewing and reporting tool used to determine if a family is ready, willing, and able to become a suitable and safe placement resource for a child.

(B) The home study must evaluate a family's dynamics in areas including, but not limited to:

(i) Motivation for wanting to foster;

(ii) Health;

(iii) Education;

(iv) Lifestyle;

(v) Daily schedules;

(vi) Parenting practices;

(vii) Support systems; and

(viii) Personal histories.

(C) It shall include a vehicle safety check on all applicable household members, a Child Maltreatment Central Registry check on all members of the household fourteen (14) years of age or older, excluding children in foster care, and a Division of Arkansas State Police criminal record check and a fingerprint-based Federal Bureau of Investigation criminal background check on all members of the household age eighteen and one-half (18 1/2) years of age or older, excluding children in foster care;

(33)(A) "Household member" means a resident of the home who:

(i) Owns or is legally responsible for paying rent on the home (household head);

(ii) Is in a close personal relationship with a household head; or

(iii) Is related to a household head or to a person in a close personal relationship with a household head.

(B) Any household member who resides in the home for more than three (3) cumulative months in a calendar year (e.g., an adult biological child of the foster

parents who is home for the summer and holiday breaks or a relative who visits for six (6) weeks twice a year) must clear the following background checks:

(i) Child Maltreatment Central Registry;

(ii) Adult Maltreatment Central Registry;

(iii) Division of Arkansas State Police Criminal Record Check; and

(iv) Federal Bureau of Investigation criminal background check;

(34) "Immediate safety plan" means a written plan developed by the Division of Children and Family Services in conjunction with the family and support network to protect the juvenile from harm and which allows the juvenile to remain safely in the home;

(35) "Inactive" means an investigation determination that may be considered when the child maltreatment assessment cannot be completed because at any time before or during the investigation the Department of Human Services and the Division of Arkansas State Police are unable to locate or identify the alleged offender or alleged victim and a true or unsubstantiated determination cannot be established without interviewing the alleged offender or alleged victim;

(36) "Indecent exposure" means exposure by a person of the person's sexual organs for the purpose of arousing or gratifying the sexual desire of the person, or of any other person under circumstances in which the person knows the conduct is likely to cause affront or alarm;

(37)(A) "Interstate Compact on the Placement of Children, Arkansas Code § 9-29-201 et seq.," is a legislative-enacted agreement currently entered into by all fifty (50) states.

(B) It is used to move children in need of placement, treatment, or adoption across state lines;

(38) "Juvenile" means a person who is between birth and eighteen (18) years of age;

(39) "Law enforcement agency" means any police force or organization whose primary responsibility as established by law or ordinance is the enforcement of laws of this state and is staffed twenty-four (24) hours a day;

(40)(A) "Maintenance subsidy" means an established monthly payment to cover the costs of maintaining and providing for the basic needs of the child in an adoptive placement on a regular basis.

(B) The payment is not to exceed the child's foster care board rate which is in effect at the time the adoption subsidy is approved.

(C) The amount may increase in subsequent approvals depending on the child's age;

(41)(A) "Mandated reporter" means individuals identified in the Child Maltreatment Reporting Act who must immediately notify the Child Abuse Hotline or law enforcement if they:

(i) Have reasonable cause to suspect that a child has been subjected to or died from child maltreatment; or

(ii) Observe the child being subjected to conditions or circumstances which would reasonably result in child maltreatment.

(B) These individuals include:

(i) Crimes Against Children Division employee;

(ii) Attorney ad litem in the course of his or her duties as attorney ad litem;

(iii) Child abuse advocate or volunteer;

(iv) Child advocacy center employee;

(v) Childcare center worker;

(vi) Childcare worker;

(vii) Child safety center employee;

(viii) Child welfare ombudsman;

(ix)*(a)* Clergy member.

(b) Clergy member includes a minister, a priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting him or her, except to the extent he or she has acquired knowledge of suspected maltreatment through communications required to be kept confidential pursuant to the religious discipline of

the relevant denomination or faith, or he or she received knowledge of the suspected maltreatment from the offender in the context of a statement of admission;

(x) Coroner;

(xi) Court-appointed special advocate (CASA) program staff or volunteer;

(xii) Dental hygienist;

(xiii) Dentist;

(xiv) Department of Human Services employee;

(xv) Department of Human Services contractor when acting within the scope of his or her employment;

(xvi) Domestic abuse advocate;

(xvii) Domestic violence shelter employee;

(xviii) Domestic violence volunteer;

(xix) Employee of a reproductive healthcare facility;

(xx) Employee working under contract for the Division of Youth Services;

(xxi) Foster care worker;

(xxii) Foster parent;

(xxiii) Full-time or part-time employee of a public school or private school, including without limitation:

(a) A school counselor;

(b) A school official;

(c) A teacher;

(d) A coach or director of a public or private athletic organization, team, or club;

(e) A coach or director of a public or private nonathletic organization, team, or club;

(f) A person who is at least twenty-one (21) years of age and volunteers in a public school or private school:

(1) As a coach or director of a public or private athletics

organization, team, or club; or

(2) As a coach or director of a public or private nonathletic organization, team, or club; and

(g) A person employed as a school official in an institution of higher education;

(xxiv) Judge;

(xxv) Juvenile intake or probation officer;

(xxvi) Law enforcement official;

(xxvii) Licensed massage therapist;

(xxviii) Licensed nurse;

(xxix) Medical personnel who may be engaged in admission, examination, care, or treatment of persons;

(xxx) Mental health paraprofessional;

(xxxi) Mental health professional;

(xxxii) Osteopath;

(xxxiii) Peace officer;

(xxxiv) Person who is eighteen (18) years of age or older and observes abuse, sexual abuse, or sexual exploitation of a child;

(xxxv) Physician;

(xxxvi) Prosecuting attorney;

(xxxvii) Rape crisis advocate or volunteer;

(xxxviii) Resident intern;

(xxxix) Sexual abuse advocate or volunteer;

(xl) Social worker;

(xli) Surgeon;

(xlii) Victim assistance professional or volunteer;

(xliii) Victim/witness coordinator;

(xliv) Volunteer at a reproductive healthcare facility; and

(xlv) Individual not otherwise identified in this list who is engaged in performing his or her employment duties with a nonprofit charitable organization other

than a nonprofit hospital;

(42) "Medical provider" means any emergency department of a hospital licensed under Arkansas Code § 20-9-214;

(43) "Neglect" means acts or omissions of a parent, guardian, custodian, foster parent, or any person who is entrusted with the juvenile's care by a parent, custodian, guardian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, childcare facility, public or private school, or any person legally responsible under state law for the juvenile's welfare, but excluding the spouse of a minor and the parents of a married minor, which constitute:

(A) Failure or refusal to prevent the abuse of the child when the person knows or has reasonable cause to know the child is or has been abused;

(B) Failure or refusal to provide the necessary food, clothing, or shelter, or medical treatment necessary for the child's well-being, except when the failure or refusal is caused primarily by the financial inability of the person legally responsible and no services for relief have been offered;

(C) Failure to take reasonable action to protect the child from abandonment, abuse, sexual abuse, sexual exploitation, or neglect where the existence of such condition was known or should have been known and, if for abuse and neglect, the failure to take reasonable action to protect the juvenile causes the juvenile serious bodily injury;

(D) Failure or irremediable inability to provide for the essential and necessary physical, mental, or emotional needs of the child, including the failure to provide a shelter that does not pose a risk to the health or safety of the child;

(E) Failure to provide for the child's care and maintenance, proper or necessary support, or medical, surgical, or other necessary care;

(F) Failure, although able, to assume responsibility for the care and custody of the child or participate in a plan to assume such responsibility;

(G) Failure to appropriately supervise the child that results in the child being left alone at an inappropriate age creating a dangerous situation or a situation that puts the child at risk of harm, or, in inappropriate

circumstances creating a dangerous situation;

(H) Failure, regardless of whether the parent, guardian, custodian, foster parent, or any person who is entrusted with the child's care, etc., is present, to appropriately supervise the child that results in the child being placed in inappropriate circumstances creating a dangerous situation; and

(I) Failure to ensure a child between six (6) and seventeen (17) years of age is enrolled in school or is legally being home schooled or as a result of an act or omission by the child's parent or guardian, the child is habitually and without justification absent from school;

(44) "Newborn" means an infant who is thirty (30) days of age or younger (Garrett's Law, Arkansas Code § 9-9-702);

(45) "Nonaccidental or abusive head trauma" means a form of inflicted head trauma that can be caused by:

(A) Direct blows to the head;

(B) Dropping or throwing a child; or

(C)(i) Shaking a child.

(ii) Shaken baby syndrome may be a component of nonaccidental or accidental head trauma;

(46)(A) "Nonrecurring adoption expense subsidy" means payment for nonrecurring adoption expenses incurred in the adoption of a child with special needs and is limited to one thousand five hundred dollars ($1,500) per child.

(B) Payment will be made to or on behalf of parents who have adopted or have accepted placement for the purpose of adoption;

(47) "Order of less than custody" means a court order that the Division of Children and Family Services may seek when there are protection issues regarding a child whose health or physical well-being is in immediate danger, but the division does not want to seek custody;

(48) "Out-of-home placement" means a placement in:

(A) A home or facility other than placement in a youth services center, a

detention facility, or the home of a parent or guardian of the juvenile; or

(B) The home of an individual other than a parent or guardian, not including any placement where the court has ordered that the placement be made permanent and ordered that no further reunification services or six-month reviews are required;

(49) "Outpatient mental health emergency" is defined by the Community Mental Health Center's actions and protocol, including, but not limited to, facilitation of admission to a hospital or other appropriate twenty-four-hour treatment facility;

(50) "Parent" means a biological mother, an adoptive parent, or a man to whom the biological mother was married at the time of conception or birth or has been found by a court of competent jurisdiction to be the biological father of the juvenile;

(51) "Permanent custody" means custody that is transferred to a person as a permanent disposition in a juvenile case and the case is closed;

(52)(A) "Policy waiver" means a request to deviate from the Division of Children and Family Services policy, procedures, or standards.

(B) The Director of the Division of Children and Family Services approves all policy waiver requests;

(53)(A) "Pornography" means obscene or licentious material, including pictures, movies, and videos.

(B) Applying contemporary community standards, the material will be considered pornographic if an average person would find that the material taken as a whole appeals to the prurient interest or if the material depicts in a patently offensive way sexual conduct.

(C) The material must lack serious literary, artistic, political, or scientific value to be considered pornographic;

(54) "Preponderance of the evidence" means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it, that is, evidence which as a whole shows that the fact to be proved is more probable than not;

(55) "Psychiatric crisis" means:

(A) Any condition requiring greater than routine services but requiring less

than hospitalization; and

(B) A condition that is not homicidal or suicidal, or if it is, one that can be handled with a no-harm contract and/or a viable plan for safety;

(56) "Putative father" means a man who claims or is alleged to be the biological father of a juvenile but has not been so deemed or adjudicated by a United States court;

(57)(A) "Reasonable efforts" means efforts to:

(i) Maintain the family unit and prevent the unnecessary removal of a child from his or her home, as long as the child's safety is ensured;

(ii) Effect the safe reunification of the child and family (if temporary out-of-home placement is necessary to ensure the immediate safety of the child); and

(iii) Make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible.

(B) If continuation of reasonable efforts as listed above is determined to be inconsistent with the permanency plan for the child, reasonable efforts are made to place the child in a timely manner in accordance with the permanency plan including, if appropriate, through an interstate placement, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(C) They also include efforts made to obtain permanency for a child who has been in an out-of-home placement for more than twelve (12) months or for fifteen (15) of the last twenty-two (22) months;

(58) "Receiving party" means the local agency, office, facility, or individual who will be supervising a child placed into a state under the provisions of the ICPC;

(59) "Receiving state" means the state to which a child is sent for supervision under the provisions of the ICPC;

(60)(A) "Relative" (for provisional resource homes) means a person within the fifth degree of kinship by virtue of blood, marriage, or adoption (Arkansas Code § 9-28-402(18) and the Child Welfare Agency Licensing Act, Arkansas Code § 9-28-401 et seq.).

(B) The fifth degree is calculated according to the child;

(61) "Relative" (for notification purposes only) means a person within the third degree of kinship by virtue of blood or adoption;

(62)(A) "Resource home safety plan" means if, at any time during the resource family application or reevaluation process, a Resource Worker determines that any aspect of the home may pose a safety risk to children placed in the home, the prospective or current resource family, as applicable, may be asked to implement a resource home safety plan to ensure the home is safe and in compliance with policy and licensing standards and otherwise adequately planning for the safety of children.

(B) Examples may include swimming pool safety plans, four-wheeler or any other all-terrain vehicle safety plan, and trampoline safety plans.

(C) The resource home safety plan must be implemented, as applicable, before the family can be approved as a resource home and will be documented via CFS-454: Resource Home Safety Plan;

(63) "Roomer/boarder" means a person to whom a household furnishes lodging, meals, or both for a reasonable monthly payment, and is not a household member;

(64) "Safety plan" means a court-ordered plan developed for a moderate or high-risk adjudicated delinquent sex offender, not to be confused with a plan put in place as part of a child maltreatment investigation to protect the child;

(65) "School" means any:

(A) Elementary school, junior high school, or high school;

(B) Technical institute or postsecondary vocational-technical school; or

(C) Two-year or four-year college or university;

(66) "Sending party" means a local agency, office, facility, court, or individual who has custody/jurisdiction of a child and has requested or arranged for an out-of-state placement the provisions of ICPC;

(67) "Sexual abuse" means any of the following acts committed:

(A) By a person fourteen (14) years of age or older to a person younger than eighteen (18) years of age:

(i) Sexual intercourse, deviate sexual activity, or sexual contact by

forcible compulsion;

(ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion;

(iii) Indecent exposure; or

(iv) Forcing the watching of pornography or live sexual activity;

(B) By a person eighteen (18) years of age or older to a person not his or her spouse who is younger than fifteen (15) years of age:

(i) Sexual intercourse, deviate sexual activity, or sexual contact;

(ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact; or

(iii) Solicitation of sexual intercourse, deviate sexual contact, or sexual contact;

(C) By a person twenty (20) years of age or older to a person not his or her spouse who is younger than sixteen (16) years of age:

(i) Sexual intercourse, deviate sexual activity, or sexual contact;

(ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact; or

(iii) Solicitation of sexual intercourse, deviate sexual activity, or sexual contact;

(D) By a caretaker to a person younger than eighteen (18) years of age:

(i) Sexual intercourse, deviate sexual activity, or sexual contact;

(ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact;

(iii) Forcing or encouraging the watching of pornography;

(iv) Forcing, permitting, or encouraging the watching of live sexual activity;

(v) Forcing listening to a phone sex line;

(vi) Committing an act of voyeurism; or

(vii) Solicitation of sexual intercourse, deviate sexual activity, or sexual contact;

(E) By a person younger than fourteen (14) years of age to a person younger than eighteen (18) years of age:

(i) Sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion; or

(ii) Attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion;

(F) By a person eighteen (18) years of age or older to a person younger than eighteen (18) years of age, the recruiting, harboring, transporting, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act; or

(G) Grooming by a:

(i) Person eighteen (18) years of age or older to a person not his or her spouse who is younger than fourteen (14) years of age; or

(ii) Caretaker to a person younger than fourteen (14) years of age;

(68) "Sexual exploitation" means allowing, permitting, or encouraging participation or depiction of the juvenile in prostitution, obscene photographing, filming, or obscenely depicting a juvenile for any use or purpose;

(69) "Significant other" means a person with whom the parent shares a household or who has a relationship with the parent that results in the person acting in place of the parent with respect to the parent's child or children, regardless of living arrangements;

(70)(A) "Special needs child" means a child who is free for adoption and belongs to a group of children for whom the Division of Children and Family Services does not have an adequate resource of approved applicants to provide a pool of available waiting adoptive families.

(B) Other children may be eligible for adoption assistance under this category if they have severe medical or psychological needs that require ongoing rehabilitation or treatment.

(C) These children include:

(i) Caucasian child nine (9) years of age or older;

(ii) Healthy child of color who is two (2) years of age or older; or

(iii) Member of any sibling group being placed together who share at least one (1) biological parent and who have either lived together or otherwise developed a bond prior to adoptive placement, and the child is:

(a) Legally free for adoption with parental rights terminated;

(b) Under eighteen (18) years of age and whose adoption has not been finalized prior to approval of the subsidy;

(c) For the purposes of a state subsidy only, in Department of Human Services custody;

(d) A member of a noncustody/out-of-home placement services case; or

(e) For the purposes of private and independent adoptions only, who is Supplemental Security Income eligible at the time the adoption petition is filed;

(71)(A) "Special subsidy" means a payment to provide for the costs of special services related to the child's needs which cannot be met by the adoptive parent.

(B) It may include, but not be limited to, legal/medical/psychological/therapy services and corrective appliances, not to include orthodontic corrective appliances;

(72)(A) "State adoption subsidy" means payments for a child who is not categorized as Title IV-E or Supplemental Security Income eligible at the time of placement for adoption by the Division of Children and Family Services.

(B) Such a child, who meets other defined special needs characteristics, may be eligible for subsidized adoption from state moneys if it has been documented that a reasonable effort has been made to place the child without the benefit of an adoption subsidy.

(C) A child must be in Department of Human Services custody to be eligible for a state-funded subsidy;

(73)(A) "State legal subsidy" means Office of Chief Counsel legal services provided for children in Department of Human Services custody and noncustody/out-of-home placement in order to finalize an adoption.

(B) A legal subsidy does not include the use of a private attorney.

(C) The children are eligible for a legal subsidy whether or not they meet the criteria for special needs and without regard to eligibility to:

(i) Title IV-E;

(ii) State maintenance subsidy; or

(iii) Nonrecurring subsidy;

(74) "Subject of the report" means the alleged offender, the custodial and noncustodial parent, guardian, and legal custodians of the child who are subject to suspected maltreatment, and the child who is the subject of suspected maltreatment;

(75)(A) "Supervision" involves periodic visitation to the home, school, or other places to monitor or observe a child's situation or condition.

(B) This service also may include arrangement and observation of visitation;

(76) "Temporary custody" means custody that is transferred to a person during the pendency of the juvenile court case when services are being provided to achieve the goal of the case plan;

(77) "Temporary placement" means placement intended to be temporary (e.g., emergency shelter) until a stable placement can be located for the child in accordance with Division of Children and Family Services policy;

(78) "Trial placement" means the custody of the child remains with the Department of Human Services but the child is returned to the home of a parent or the person from whom custody was removed for a period not to exceed sixty (60) days;

(79) "True" means a determination when the allegation of child maltreatment is supported by a preponderance of the evidence;

(80) "Underage juvenile offender" means any child younger than fourteen (14) years of age for whom a report of sexual abuse has been determined to be true for sexual abuse to another child;

(81) "Unsubstantiated" means a determination when the allegation of child maltreatment is not supported by a preponderance of the evidence; and

(82) "Voyeurism" means looking, for the purpose of sexual arousal or gratification, into a private location or place in which a child may reasonably be

expected to be nude or partially nude.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

Subpart 2. Division Overview and General Provisions

9 CAR § 40-201. Division mission, practice model, powers, and duties.

(a) **Mission statement.**

(1) Our mission is to keep children safe and help families.

(2) The Division of Children and Family Services will respectfully engage families and youth and use community-based services and supports to assist parents in successfully caring for their children.

(3) We will focus on the safety, permanency, and well-being for all children and youth.

(b) **Practice model.**

(1)(A) The Arkansas child welfare practice model describes all of our efforts to renew our work with families and aligns us more readily with our division's mission.

(B) It reflects our goals, our principles, our casework process, our daily interactions, and our decisions.

(C) The practice model is the way our systems work together to serve children and families.

(2)(A) Our practice model unites our casework process with an approach that values and supports families at every step of a family's encounter with our system.

(B) The goals of our practice model are to:

(i) Safely keep children with their families;

(ii) Enhance well-being in all of our practice with families;

(iii) Ensure foster care and other placements support goals of permanency;

(iv) Use permanent placement with relatives or other adults, when reunification is not possible, who have a close relationship to the child or children (preferred permanency option);

(v) Ensure adoptions, when that is the best permanency option, are timely, well-supported, and lifelong; and

(vi) Ensure youth have access to an array of resources to help achieve successful transition to adulthood.

(3)(A) Along with our goals, we support the practice model by looking for ways to incorporate the following principles into every encounter we have when working on behalf of families.

(B) We believe:

(i) Behavior, change, and the work of change is a part of our daily challenge;

(ii) Safety for children is achieved through positive protective relationships with caring family and community members;

(iii) Meaningful decisions require close family participation in decision-making;

(iv) Strengths of families and supporting these strengths contribute to life-long permanent relationships for children;

(v) Families' success depends on community involvement and shared problem solving;

(vi) Practice with families is interrelated at every step of the casework process;

(vii) Sustainable success with families is the work of a team;

(viii) The entire system must support frontline practice to achieve positive outcomes with families;

(ix) Every staff position, role, and activity of the division shows

continuous effort to build and maintain professionalism;

(x) Skill-based training and consultation form the foundation for successful practice with families;

(xi) Quality improvement and accountability guide all of our work; and

(xii) How we do the work is as important as the work we do.

(c) **Powers and duties.** The division performs the following functions and has the authority and responsibility to:

(1) Coordinate communication between various components of the child welfare system;

(2) Provide services to dependent-neglected children and their families;

(3) Investigate reports of child maltreatment and assess the health, safety, and well-being of children during investigations;

(4) Provide services, when appropriate, designed to allow maltreated children to safely remain in their homes;

(5) Protect children when remaining in their home presents an immediate danger to their health, safety, or well-being;

(6) Ensure placements support the goal of permanency for children when the division is responsible for the children's placement and care;

(7) Ensure the health, safety, and well-being for children when the division is responsible for the children's placement and care; and

(8) Promulgate rules necessary to administer these powers and duties.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2013"

9 CAR § 40-202. Child welfare delivery system.

(a)(1) The Division of Children and Family Services purchases services from private and public agencies, universities, and individuals using state and federal funds.

(2) Programs and services of other divisions within the Department of Human Services may also be available to clients of the Division of Children and Family Services.

(3) Delivery of services is coordinated with other divisions administering:

(A) TEA/TANF Medicaid;

(B) SNAP (Supplemental Nutrition Assistance Program);

(C) Social Services Block Grant; and

(D) Other federal entitlement programs.

(b)(1) The services are authorized and funded in conjunction with various state and federal laws which govern the operation of the Division of Children and Family Services.

(2) The major federal laws governing service delivery, as amended, are:

(A) The Civil Rights Act of 1964, Pub. L. No. 88-352, Titles VI, VII, and IX;

(B) The Rehabilitation Act of 1973, Pub. L. No. 93-112, Sections 503, 504;

(C) The Americans with Disabilities Act of 1990, Pub. L. No. 101-336, Title II;

(D) The Social Security Act of 1935, Pub L. No. 74-271 Titles:

(i) IV-A — Block Grants to States for Temporary Assistance for Needy Families (TANF);

(ii) IV-B — Child and Family Services;

(iii) IV-E — Federal Payments for Foster Care, Prevention, and Permanency;

(iv) XIX — Grants to States for Medical Assistance Programs; and

(v) XX — Block Grants to States for Social Services; and

(E) Public laws:

(i) 93-247— Child Abuse and Neglect;

(ii) 94-142 — The Education for All Handicapped Children Act of 1975;

(iii) 96-272 — The Adoption Assistance and Child Welfare Act of

1980; and

(iv) 105-89 — The Adoption and Safe Families Act of 1997.

(c) **Compliance with Civil Rights Act**.

(1) The Division of Children and Family Services complies with Titles VI and VII of the Civil Rights Act of 1964 and operates, manages, and delivers services without regard to:

(A) Race;

(B) Color;

(C) Religion;

(D) Sex;

(E) Age;

(F) National origin;

(G) Mental or physical disability;

(H) Veteran status;

(I) Political affiliation; or

(J) Belief.

(2) The Division of Children and Family Services is the designated state agency to administer and supervise all child and family services (Titles IV-B and IV-E of the Social Security Act of 1935).

(d) **Compliance with Indian Child Welfare Act**.

(1)(A) The Division of Children and Family Services is respectful of the varying cultures and heritages of the families it serves.

(B) To that end, the Division of Children and Family Services complies with all mandates of the federal Indian Child Welfare Act of 1978, Pub. L. No. 95-608 (ICWA).

(C) ICWA is a federal law regulating placement proceedings involving children of Native American descent.

(D) ICWA mandates preventive services before removal to:

(i) Protect the best interest of Native American children; and

(ii) Promote the stability and security of Native American families and

tribes.

(E) This includes:

(i) Preventing the unnecessary and arbitrary removal of Native American children from their families and tribes; and

(ii) Placing a Native American child who must be removed in an available and safe home that reflects the unique values of the Native American culture.

(2)(A) If a child of Native American descent is transferred from the custody of the division to a Tribal IV-E agency or an Indian tribe with a Title IV-E agreement, the Division of Children and Family Services will work in close consultation with the applicable Native American tribe to ensure the transfer of custody does not affect a child's eligibility for:

(i) Title IV-E or medical assistance under Title XIX (Medicaid); or

(ii) Receipt of services or payment under Title IV-E or Medicaid.

(B) The Division of Children and Family Services will determine, if the eligibility determination is not already completed, the:

(i) Child’s IV-E eligibility at the time of the transfer of placement; and

(ii) Responsibility of care of a child to a tribal Title IV-E agency or an Indian tribe with a Title IV-E agreement.

(3) The Division of Children and Family Services will provide essential documents and information necessary to continue a child's eligibility under Title IV-E and Medicaid programs under Title XIX to the tribal Title IV-E agency, including, but not limited to providing:

(A) All judicial determinations to the effect that:

(i) Continuation in the home from which the child was removed would be contrary to the welfare of the child; and

(ii) Reasonable efforts to prevent removal have been made;

(B) Other documentation the Division of Children and Family Services has that relates to the child's Title IV-E eligibility;

(C) Information and documentation available to the Division of Children and Family Services regarding the child's eligibility or potential eligibility for other

federal benefits;

(D) The case plan, including health and education records of the child; and

(E) Information and documentation of the child's placement settings, including a copy of the most recent provider's license or approval.

(e) **Compliance with the Multiethnic Placement Act of 1994.**

(1)(A) The Division of Children and Family Services also complies with the Multiethnic Placement Act of 1994, Pub. L. No. 103-382 (MEPA) in making foster care and adoptive placements.

(B) The Multiethnic Placement Act of 1994 provides for assessment of individual liability to staff for knowingly violating MEPA requirements.

(2) The Multiethnic Placement Act of 1994 prohibits:

(A) Delaying or denying the placement of a child for adoption or foster care on the basis of race, color, or national origin of the adoptive or foster parent or the child involved; and

(B) Denying any individual the opportunity to become a foster or adoptive parent on the basis of the prospective parent's or the child's:

(i) Race;

(ii) Color; or

(iii) National origin.

(3) MEPA also requires that to remain eligible for federal assistance for their child welfare programs, states 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.

(4) Consideration of race, color, or national origin is permissible only when an individual determination is made that the facts and circumstances of a particular case require the consideration of race, color, or national origin in order to advance the best interests of the child in need of placement.

(5) The Division of Children and Family Services' compliance with the Indian Child Welfare Act of 1978 does not violate the Multiethnic Placement Act of 1994.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. Titles VI, VII, and IX of the Civil Rights Act of 1964 is codified at 42 U.S.C. § 2000d et seq., 42 U.S.C. §§ 2000e – 2000e-17, and 20 U.S.C. §§ 1681-1688, respectively.

Sections 503 and 504 of the Rehabilitation Act of 1973 are codified at 29 U.S.C. §§ 793 and 794.

Title II of the Americans with Disabilities Act of 1990 is codified at 42 U.S.C. §§ 1231 – 12165.

Titles IV-A, IV-B, IV-E, XIX, and XX of the Social Security Act of 1935 are codified at 42 U.S.C. § 601 et seq., 42 U.S.C. § 621 et seq., 42 U.S.C. § 670 et seq., 42 U.S.C. § 1396-1 et seq., 42 U.S.C. § 1397 et seq., respectively.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"10/2013"

9 CAR § 40-203. Division volunteers.

(a)(1) Because families' success depends on community involvement, Division of Children and Family Services volunteers are an integral part of the child welfare system working to improve outcomes for children and families.

(2) Division of Children and Family Services volunteers may serve in a variety of capacities based on their interests, skill level, and training.

(3) Regardless of the role volunteers may play, all volunteers are responsible for ensuring the proper care, treatment, safety, and supervision of the children they

serve.

(4) Volunteers must be at least twenty-one (21) years of age with the exception of stipend and nonstipend interns who must be at least eighteen (18) years of age.

(b)(1) A county office volunteer designee will be established in each Division of Children and Family Services county office to assist and support local volunteers.

(2) The Division of Children and Family Services Statewide Volunteer Coordinator in the Central Office will help:

(A) Process volunteer applications; and

(B) Provide technical assistance to local county office and volunteer designees.

(3) The Division of Children and Family Services Statewide Volunteer Coordinator will also serve as the direct point of contact for community organizations that recruit volunteers to then support Division of Children and Family Services activities.

(c)(1) Community organizations (e.g., The CALL, Project Zero, etc.) that recruit their own volunteers to then provide assistance to Division of Children and Family Services staff and clients also play a vital role in supporting children and families and are valued Division of Children and Family Services partners.

(2) Each community organization liaison will be responsible for submitting all required background checks and other application materials for their agency volunteers to the Division of Children and Family Services Statewide Volunteer Coordinator.

(3) After the background check results have been received and approved by the Division of Children and Family Services, the Community Organization Liaison will also be responsible for updating these background checks every two (2) years for those individuals who continue to serve as volunteers for that agency.

(d)(1) All prospective volunteers who have direct and unsupervised contact with children must be cleared through:

(A) The Child Maltreatment Central Registry; and

(B) A Division of Arkansas State Police criminal record check.

(2) The Division of Children and Family Services will request any other state where the prospective volunteer has resided in the preceding five (5) years to check its child abuse and neglect registry, if available, and in the person's state of employment, if different, for reports of child maltreatment, if available.

(3) Any prospective volunteer who has not lived in Arkansas continuously for the past five (5) years must also clear a Federal Bureau of Investigation fingerprint-based criminal background check.

(4) A vehicle safety check (i.e., driving record) and a copy of proof of auto insurance are also required for all prospective volunteers who will have direct and unsupervised contact with children and other clients.

(5) Once a volunteer is approved, all background checks will be run every two (2) years thereafter as long as an individual remains a volunteer with the Division of Children and Family Services.

(e) Volunteers who will not have direct contact with children and clients are not required to complete background checks.

(f)(1) All volunteers will:

(A) Maintain confidentiality of children and families served by the Division of Children and Family Services; and

(B) Sign a confidentiality agreement to this effect.

(2) Confidentiality applies to verbal, written, and/or electronic transmittal of information.

(3) Volunteers will not have unsupervised access to CHRIS.

(g)(1) Volunteers will be supervised by an appropriate staff person.

(2) A volunteer who works unsupervised and substitutes as staff must meet the qualifications required for a paid employee in that position.

(h) Volunteers not serving in a foster or adoptive capacity are required to earn at least five (5) hours of continuing education hours each year following the completion of their first year of volunteer service.

(i) Volunteers approved by the Department of Human Services to transport children in foster care or department clients or to supervise visits at the request of the

department shall not be liable to the children in foster care, department clients, or the parents or guardians of children in foster care for injuries to the children or clients caused by the acts or omissions of a volunteer unless the acts or omissions constitute malicious, willful, wanton, or grossly negligent conduct.

(j)(1) An approved volunteer who performs home studies without compensation shall have immunity from liability as provided for state officers and employees.

(2) While a home study volunteer may be recruited through any organization operating under a memorandum of understanding with the department for the completion of home studies, only the department will approve the home study volunteer.

(k)(1) If at any point during the volunteer application and assessment process the Division of Children and Family Services determines that an applicant does not meet the standards or any other criteria for a Division of Children and Family Services volunteer, then the Division of Children and Family Services will deny approval of the volunteer.

(2) If at any time during the course of an approved volunteer's service with the Division of Children and Family Services it is determined that the volunteer poses a risk to children, then the Division of Children and Family Services will terminate the volunteer's services immediately.

(l)(1) In the interest of providing stability for children and families, the Division of Children and Family Services recruits relatives and fictive kin as volunteers for their specific family members.

(2) Relative and fictive kin applicants must be cleared through the Child Maltreatment Central Registry and through a Division of Arkansas State Police criminal record check as well as meet driving requirements established by the Division of Children and Family Services.

(3) The Division of Children and Family Services will request any other state where the prospective volunteer has resided in the preceding five (5) years to check its child abuse and neglect registry, if available, and in the person's state of employment, if different, for reports of child maltreatment, if available.

(m)(1) If approved, these relative and fictive kin volunteers:

(A) Are available to provide transportation for their family members; and

(B) Will not be allowed to participate as a volunteer for the Division of Children and Family Services in any other manner.

(2) Because the relative and fictive kin volunteers will serve in a case-specific role, the Division of Children and Family Services will make exceptions to the volunteer application process, such as completing only the necessary background check forms rather than the entire volunteer packet, to expedite the availability of the relative and fictive kin volunteers to provide services for their family members.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-204. Volunteer application process and approval.

(a) The Division of Children and Family Services County Office Volunteer Designee or Community Organization Liaison will:

(1)(A) Provide volunteer applicant with a Volunteer Packet and instructions on completion.

(B) The forms in the Volunteer Packet that the volunteer applicant will receive are:

(i) CFS-050-A: DCFS Volunteer Opportunities;

(ii) CFS-050-C: DCFS Volunteer Application;

(iii) CFS 050-D: DCFS Volunteer Confidentiality Statement;

(iv) CFS-050-E: Volunteer Agreement;

(v) CFS-316: Request for Child Maltreatment Central Registry Check;

(vi) CFS-342: State Police Criminal Record Check;

(vii) Federal Bureau of Investigation fingerprint card (if not using

harvester) for any volunteer applicant who has not lived continuously in Arkansas for the past five (5) years;

(viii) CFS-593: Arkansas State Vehicle Safety Program Additional Requirements for Division of Children and Family Services drivers;

(ix) VSP-001: Authorization to Operate State Vehicles and Private Vehicles on State Business;

(x) VSP-002: Authorization to Obtain Traffic Violation Record; and

(xi) Arkansas State Vehicle Safety Program Manual.

(C) The forms in the Indirect Service Volunteer Packet that the volunteer applicant will receive are:

(i) CFS-050-C: Volunteer Application;

(ii) CFS-050-D: Confidentiality Statement; and

(iii) CFS-050-E: Volunteer Agreement;

(2) Ask applicant to submit a W-9 if the volunteer plans to transport clients and wishes to be reimbursed for mileage;

(3) Answer volunteer applicant questions, as applicable;

(4) Collect the Volunteer Packet forms listed above from the applicant once all forms have been completed including the volunteer applicant's W-9, if applicable;

(5) Review Volunteer Packet forms submitted by volunteer applicant;

(6) Call the references listed on the application to gather more information;

(7) Complete Section A of CFS-050-B: DCFS Volunteer Checklist, as appropriate, to ensure that all documents required of volunteer applicant have been completed;

(8) Forward the completed Volunteer Packet, including CFS-050-B: DCFS Volunteer Checklist, to the Division of Children and Family Services Statewide Volunteer Coordinator, Slot S-565 for processing and approval;

(9) Provide the transaction number (upon receipt from the Division of Children and Family Services Volunteer Coordinator) to volunteer applicants who:

(A) Have not lived in Arkansas continuously for the past five (5) years; and

(B) Choose to use the harvester to conduct the Federal Bureau of Investigation fingerprint-based Criminal Background Check;

(10) If approval of volunteer is received from the Division of Children and Family Services Statewide Volunteer Coordinator via completed CFS-050-B: DCFS Volunteer Checklist:

(A) Inform volunteer as soon as possible;

(B) Assign volunteer an appropriate point of contact in the county office prior to commencement of any volunteer activities;

(C) Provide the Division of Children and Family Services orientation to volunteer prior to commencement of any volunteer activities, but preferably within two (2) weeks of approval notification to volunteer;

(D) Establish mutually agreed upon schedule for volunteer;

(E) Complete Section C of CFS-050-B: DCFS Volunteer Checklist and file in volunteer record;

(F) Handle complaints as needed; and

(G) Notify the Division of Children and Family Services Statewide Volunteer Coordinator if volunteer quits or is asked to leave; and

(11) If approval of a volunteer is not received from the Division of Children and Family Services Statewide Volunteer Coordinator:

(A) Inform the volunteer as soon as possible; and

(B) Place copy of completed CFS-050-B: DCFS Volunteer Checklist in volunteer applicant record.

(b) The Division of Children and Family Services Statewide Volunteer Coordinator will:

(1) Review forms in the Volunteer Packet using CFS-050-B Division of Children and Family Services Volunteer as a guide to ensure all required volunteer applicant forms have been completed and submitted;

(2) Mail a thank you post card to the volunteer applicant;

(3)(A) Route all background check request forms to the appropriate units.

(B)(i) Submit the completed CFS-316: Request for Child Maltreatment

Central Registry Check to the Central Registry Unit for each volunteer applicant.

(ii) The CFS-316 must be notarized.

(iii) The Child Maltreatment Central Registry Check shall be repeated every two (2) years.

(iv) Route each completed CFS-316 to the Central Registry Unit.

(v) Document results in CHRIS.

(C)(i) Submit the completed CFS-342: State Police Criminal Record Check for each volunteer applicant.

(ii) The CFS-342 must be notarized.

(iii) The Division of Arkansas State Police Criminal Record Check shall be repeated every two (2) years.

(iv) Route each completed CFS-342 to the Criminal Records Unit.

(v) Document eligible or ineligible results in CHRIS.

(D)(i) Submit the signed CFS-593, VSP-1, and VSP-2 to the Vehicle Safety Program Coordinator along with a clear copy of the driver's license for each volunteer applicant.

(ii) Copy the front and back of the driver's license.

(iii) Document results in CHRIS.

(E)(i) For all volunteer applicants who have not lived in Arkansas continuously for the past five (5) years, submit the appropriate paperwork for a Federal Bureau of Investigation fingerprint-based Criminal Background Check to the Division of Children and Family Services Criminal Records Unit to process this check and collaborate with the Criminal Background Check Unit accordingly.

(ii) There are two (2) options for processing the Federal Bureau of Investigation check:

(a)(1) Electronic fingerprint scanning.

(2) Volunteer applicants do not need to fill out a Federal Bureau of Investigation fingerprint card, as a request for electronic scanning will be done via CFS-342: State Police Criminal Record Check.

(3) The Criminal Records Unit will use the CFS-342: State

Police Criminal Record Check to get a transaction number from the Division of Arkansas State Police.

(4) The Criminal Records Unit will forward the transaction number to the Division of Children and Family Services Statewide Volunteer Coordinator.

(5) The Division of Children and Family Services Statewide Volunteer Coordinator will forward the transaction number to the Division of Children and Family Services County Volunteer Designee or Community Organization Liaison to then forward to the volunteer applicant.

(6) Applicants must go to an approved electronic harvester to have fingerprints scanned; and

(b)(1) Ink fingerprint.

(2)(A) Volunteer applicants will complete CFS-342: State Police Criminal Record Check and the Federal Bureau of Investigation fingerprint card with good, unsmudged prints.

(B) Take care not to staple through the fingerprints on the Federal Bureau of Investigation fingerprint card.

(3)(A) If the prints are not readable, the volunteer will have to resubmit.

(B) Volunteer applicants may not use an electronic harvester if they have already submitted ink fingerprints and the attempt was unsuccessful.

(4) If a legible set of fingerprints cannot be obtained after a minimum of two (2) attempts, a name-based Federal Bureau of Investigation check will be conducted instead;

(4) Enter all other required volunteer data into the volunteer management spreadsheet or CHRIS, as applicable;

(5) Maintain other records and correspondence with county office staff and Community Organization Liaisons regarding volunteers;

(6) Notify a County Office Volunteer Designee or Community Liaison, as

appropriate, with approval or denial status of volunteer via completed CFS-050-B: DCFS Volunteer Checklist for record keeping purposes;

(7) Maintain a copy of the CFS-050-B: DCFS Volunteer Checklist for record keeping purposes;

(8) Assist county office staff and Community Organization Liaisons with orientations for new volunteers as needed/upon request;

(9) Assist county office staff and Community Organization Liaisons with trouble-shooting volunteer-related issues; and

(10) Document in volunteer management spreadsheet or CHRIS, as applicable, when volunteer resigns or is asked to leave, as applicable.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-205. Volunteer background check renewals.

(a) The Division of Children and Family Services Statewide Volunteer Coordinator will:

(1) Mail the following to the volunteer's home address (as identified in CHRIS) at least thirty (30) business days prior to the volunteer's two-year anniversary of his or her last processing of background checks:

(A) A cover letter:

(i) Thanking the volunteer for his or her volunteer service;

(ii) Reminding the volunteer that he or she is required to earn five (5) hours of continuing education credit annually following the completion of the first year of volunteer service;

(iii) Explaining that his or her background checks will expire soon and

must be renewed;

(iv) Requesting volunteer to complete all enclosed background check forms and return them to the division Central Office Policy Unit within two (2) weeks of receipt;

(v) Informing volunteer that if all enclosed background check forms are not completed and returned to the division Statewide Volunteer Coordinator within the required timeframe, he or she will no longer be eligible to serve as a division volunteer; and

(vi) Requesting volunteer to provide copies of his or her training completion certificates earned over the last year;

(B) CFS-316: Request for Child Maltreatment Central Registry Check; and

(C) CFS-342: State Police Criminal Record Check;

(2) After mailing the information listed above, notify volunteer's County Office Volunteer Designee or Community Organization Liaison, as applicable, that volunteer's background checks must be renewed as soon as possible and that required forms have been mailed to the volunteer; and

(3) If volunteer does not return all completed background check forms and copies of training certificates within requested timeframes outlined in aforementioned cover letter:

(A) Contact volunteer by phone prior to his or her two-year anniversary of the last processing of background checks to request that he or she complete and return required background check forms within one (1) week;

(B) Document conversation (or attempt to contact) with volunteer in the volunteer management spreadsheet or CHRIS, as applicable; and

(C) If volunteer still does not return completed background checks and copies of training certificates within required timeframe:

(i) Document in the volunteer management spreadsheet or CHRIS, as applicable, that volunteer is no longer eligible to serve as a volunteer;

(ii) Send a letter to the former volunteer informing him or her that he or she is no longer eligible to serve as a volunteer;

(iii) Notify the volunteer's County Office Volunteer Designee via email that the volunteer may no longer serve as a volunteer in the county office;

(iv) Submit returned background check forms to applicable background check units for processing (see 9 CAR § 40-204).

(v) Notify County Office Volunteer Designee or Community Organization Liaison, as appropriate, with approval or denial status of volunteer based on the background check reevaluation.

(b) The County Office Volunteer Designee or Community Organization Liaison will:

(1) Work with the division Statewide Volunteer Coordinator and volunteer as needed to ensure that a volunteer's background checks are renewed when required; and

(2) If a volunteer does not renew required background checks in required timeframe, ensure he or she no longer provides services to/at the local county office or through the community organization that helps to support the division.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-206. Relative and fictive kin volunteer application and process for approval.

The FSW will:

(1) Ensure that relatives and fictive kin who have already been approved as a provisional placement resource for a child under 9 CAR § 40-708 are not referred for processing as a relative or fictive kin volunteer (individuals already approved as provisional placement resources may also transport the relative/fictive kin child);

(2) If the relative or fictive kin transporter appears viable:

(A) Interview the child, if age appropriate, to assess how the child may feel about routine contact with that person; and

(B) Make individualized decisions on a case-by-case basis in the best interest of the child;

(3) Speak with the applicant and with the biological family to determine the current status of their relationship;

(4)(A) Provide volunteer applicant with a Volunteer Packet and instructions on completion.

(B) The forms in the Volunteer Packet that the relative/fictive kin volunteer applicant will receive are:

(i) CFS-316: Request for Child Maltreatment Central Registry Check;

(ii) CFS-342: State Police Criminal Record Check;

(iii) Federal Bureau of Investigation fingerprint card (if not using harvester) for any volunteer applicant who has not lived continuously in Arkansas for the past five (5) years;

(iv)*(a)* CFS-593: Arkansas State Vehicle Safety Program Additional Requirements for Division of Children and Family Services Drivers.

(b) VSP-001: Authorization to Operate State Vehicles and Private Vehicles on State Business.

(c) VSP-002: Authorization to Obtain Traffic Violation Record; and

(v) W-9 form;

(5) Arkansas State Vehicle Safety Program Manual/Answer volunteer applicant questions, as applicable;

(6) Collect and review the Volunteer Packet forms listed above from the applicant once all forms have been completed;

(7)(A) Route all background check request forms to the appropriate units.

(B)(i) Submit the completed CFS-316: Request for Child Maltreatment Central Registry Check to the Central Registry Unit for each volunteer applicant.

(ii) The CFS-316 must be notarized.

(iii) The Child Maltreatment Central Registry Check shall be repeated every two (2) years.

(iv) Route each completed CFS-316 to the Central Registry Unit.

(v) Document results in CHRIS relative volunteer tab of "collateral" screen.

(C)(i) Submit the completed CFS-342: State Police Criminal Record Check for each volunteer applicant.

(ii) The CFS-342 must be notarized.

(iii) The Division of Arkansas State Police Criminal Record Check shall be repeated every two (2) years.

(iv) Route each completed CFS-342 to the Criminal Records Unit.

(v) Document eligible or ineligible results in CHRIS relative volunteer tab of "collateral" screen.

(D)(i) Submit the signed CFS-593, VSP-1, and VSP-2 to the Vehicle Safety Program Coordinator along with a clear copy of the driver's license for each volunteer applicant.

(ii) Copy front and back of driver's license.

(iii) Document results in CHRIS relative volunteer tab of "collateral" screen.

(E)(i) Work with the Division of Children and Family Services Criminal Records Unit to process a Federal Bureau of Investigation fingerprint-based Criminal Background Check for all volunteer applicants who have not lived in Arkansas continuously for the past five (5) years.

(ii) There are two (2) options for processing the Federal Bureau of Investigation check:

(a)(1) Electronic fingerprint scanning.

(2) Volunteer applicants do not need to fill out Federal Bureau of Investigation fingerprint card, as a request for electronic scanning will be done via CFS-342: State Police Criminal Record Check.

(3) The Division of Children and Family Services County

Supervisor or designee will route the completed CFS-342: State Police Criminal Record Check to the Division of Children and Family Services Criminal Records Unit.

(4) The Criminal Records Unit will use the CFS-342: State Police Criminal Record Check to get a transaction number from the Division of Arkansas State Police.

(5) The Criminal Records Unit will forward the transaction number to the Division of Children and Family Services County Supervisor or designee requesting the checks.

(6) The Division of Children and Family Services County Supervisor or designee will forward the transaction number to the relative or fictive kin volunteer applicant.

(7) Applicants must go to an approved electronic harvester to have fingerprints scanned.

(8) The Division of Children and Family Services County Supervisor or designee will document eligible or ineligible results in CHRIS; and

(b)(1) Ink fingerprint.

(2)(A) Volunteer applicants will complete CFS-342: State Police Criminal Records Check and the Federal Bureau of Investigation fingerprint card with good, unsmudged prints.

(B) Take care not to staple through fingerprints on the Federal Bureau of Investigation fingerprint card.

(3)(A) If the prints are not readable, the volunteer will have to resubmit.

(B) Volunteer applicants may not use an electronic harvester if they have already submitted ink fingerprints and the attempt was unsuccessful.

(4) If a legible set of fingerprints cannot be obtained after a minimum of two (2) attempts, a name-based Federal Bureau of Investigation check will be conducted instead.

(5) The Division of Children and Family Services County

Supervisor or designee will work with the Criminal Records Unit to process the check.

(F) Enter all other required volunteer data in CHRIS relative and fictive kin tab of "collateral" screens;

(8) Provide the transaction number (upon receipt from the Division of Children and Family Services Central Office) to volunteer applicants who:

(A) Have not lived in Arkansas continuously for the past five (5) years; and

(B) Choose to use the harvester to conduct the Federal Bureau of Investigation fingerprint-based Criminal Background Check;

(9) If approval of a volunteer is received via conference with Supervisor (based on background check results and consultation about FSW's assessment of the volunteer's appropriateness for contact with the family):

(A) Inform volunteer as soon as possible;

(B) Assign volunteer an appropriate point of contact in the county office prior to commencement of any volunteer activities;

(C) Provide W-9 to area Financial Coordinator and work with Financial Coordinator to obtain the volunteer applicant's assigned AASIS vendor number;

(D)(i) Provide the Division of Children and Family Services orientation to the volunteer prior to commencement of any volunteer activities, but preferably within two (2) weeks of approval notification to volunteer.

(ii) Division of Children and Family Services travel forms.

(iii) AASIS vendor number for completion of travel reimbursement requests.

(iv) Case-specific information pertaining to the location, frequency, duration, and supervision requirements for parent-child or sibling visitation as appropriate;

(E) Establish mutually agreed upon schedule for volunteer;

(F) Handle complaints as needed; and

(G) Notify the Division of Children and Family Services Central Office Foster Care Unit and Area Director if volunteer quits, concerns or issues arise, or the

volunteer is asked to leave;

(10) If approval of volunteer is not received from Supervisor, inform the volunteer as soon as possible; and

(11) Document in CHRIS when volunteer resigns or is asked to leave, as applicable.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "AASIS" means the Arkansas Administrative Statewide Information System.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-207. Official record keeping — Access to official records.

(a)(1) The official record of child welfare information for the Division of Children and Family Services is maintained through the Children's Reporting Information System (CHRIS).

(2) CHRIS is a fully automated, worker-based child welfare information system.

(3) Data input instructions for the CHRIS applications are included throughout the Division of Children and Family Services Policy and Procedure Manual.

(b)(1) CHRIS is overseen by the Division of Administrative Services, Office of Technology .

(2) The Division of Administrative Authority, Office of Technology is responsible for:

(A) Enhancements to the CHRIS application;

(B) Data monitoring;

(C) Help desk function; and

(D) Some specialized training.

(c)(1) In instances when information is not able to be entered into CHRIS, some hard copies (e.g., forms with signatures, medical records, education records, etc.) are also considered part of the official record.

(2) A hard copy file of case information will be maintained for data not in CHRIS.

(3) Hard copy files will be created, if necessary for case review.

(d) Division of Children and Family Services employees with access to CHRIS are prohibited from accessing and/or viewing any CHRIS information regarding investigative reports and/or open cases to which he or she is not assigned unless:

(1) Permission from his or her supervisor is granted to view the information; or

(2) The employee is the supervisor for that report and/or open case.

(e)(1) This prohibition extends to any Division of Children and Family Services employee or provider with access to CHRIS who is a "subject of the report" as defined in the Child Maltreatment Act, Arkansas Code § 12-18-101 et seq.

(2) This part holds regardless of whether the information is restricted or not to the Division of Children and Family Services employee or provider.

(f) The Division of Children and Family Services supervisors are prohibited from accessing and/or viewing investigative report or open case information in CHRIS if the interest in the report or case is personal (i.e., not professionally related).

(g) The Division of Children and Family Services employees and providers are also prohibited from accessing and/or viewing any information in CHRIS if the interest in the investigation and/or case is personal (e.g., a friend, family member, present or former colleague, etc., is involved in the report or case).

(h) **Record retention schedule.**

(1) Retain all information in the automated data system indefinitely to assist the Department of Human Services in assessing future risk and safety.

(2) Records of all cases where allegations are determined to be true shall be retained by the Child Maltreatment Central Registry and all hard copy records with true

determinations shall be retained forever.

(3)(A) Hard copy records of unsubstantiated reports are not part of the Child Maltreatment Central Registry.

(B) They will be destroyed by the investigating agency at the end of the month in which the determination is made.

(4) Records of all cases where allegations are determined to be unsubstantiated shall not be included in the Child Maltreatment Central Registry.

(5)(A) Retain all child protective services, differential response, out-of-home placement services, and supportive services for five (5) years after the youngest child turns twenty-one (21) years old.

(B) Retain all other client files for five (5) years after:

(i) The file is closed; or

(ii) The last case activity.

(6) Retain all foster and adoptive applicant files that are denied for three (3) years from the date that the applicant is informed of the decision.

(7) Retain all foster and adoptive applicant files where no decision is rendered due to incomplete process for three (3) years from the date of the last documented communication with the applicant.

(8) Retain all adoption records for ninety-nine (99) years.

(9)(A) Retain all rules until superseded.

(B) Superseded rules must be retained on an as-needed basis.

(10) Retain all records relating to a person or entity contracting with the department for five (5) years after the contract ends or is terminated.

(11) Retain all administrative records including programmatic financial records for five (5) years after the end of the biennium in which the records were produced.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2014"

9 CAR § 40-208. Confidentiality.

(a) **Overview.**

(1)(A) The Division of Children and Family Services is committed to best practice in relation to respecting client confidentiality.

(B) Information is confidential if it is not intended to be disclosed to persons other than those to whom disclosure is allowed under the statute.

(C) All employees of the Division of Children and Family Services shall maintain the confidentiality of children and families served by the Division of Children and Family Services.

(D) Confidentiality applies to verbal, written, and/or electronic transmittal of information including information in CHRIS.

(2)(A) No Division of Children and Family Services employee may accept employment or engage in any activity while serving as a Division of Children and Family Services employee which might reasonably be expected to require or induce the employee to disclose confidential information.

(B) In addition, no Division of Children and Family Services employee may disclose confidential information or use confidential information for the gain or benefit of the employee or person in a close, personal relationship to the employee.

(b) **Investigate records.**

(1) Child maltreatment investigative data, records, reports, and documents are confidential and may only be disclosed as provided for in the Child Maltreatment Act, Arkansas Code § 12-18-101 et seq.

(2)(A) If a Division of Children and Family Services employee wrongfully discloses confidential information, he or she is guilty of a Class A misdemeanor and can lose his or her job.

(B) For a Class A misdemeanor, the sentence shall not exceed:

(i) One (1) year in the county jail; and

(ii) A one-thousand-dollar fine.

(C) See Arkansas Code § 12-18-205.

(c) **In-home and foster care case records.**

(1)(A)(i) Reports, correspondence, memoranda, case histories, or other materials related to protective services and foster care records, shall be confidential and shall not be released or otherwise made available, except to the extent permitted by federal and state law and only as listed below.

(B) This includes protected health information compiled or received by a licensee or a state agency engaged in placing a child:

(i) To the Director of the Child Welfare Agency Review Board as required by rules.

(ii) For adoptive placements, as provided by the Revised Uniform Adoption Act, Arkansas Code § 9-9-201 et seq.

(iii) To multidisciplinary teams under Arkansas Code § 12-18-106(a).

(iv)*(a)*To the child's parent, guardian, or custodian.

(b) However, the licensee or state agency may redact information from the record such as the name or address of foster parents or providers when it is in the best interest of the child.

(c) The licensee or state agency shall redact counseling records, psychological or psychiatric evaluations, examinations or records, drug screens or drug evaluations, or similar information concerning a parent if the other parent is requesting a copy of a record.

(v) To the child.

(vi)*(a)* To healthcare providers to assist in the care and treatment of the child at the discretion of the licensee or state agency and if deemed to be in the best interest of the child.

(b) Healthcare providers include doctors, nurses, emergency medical technicians, counselors, therapists, mental health professionals, and dentists.

(vii) To school personnel and childcare centers caring for the child at the discretion of the licensee or state agency and if deemed to be in the best interest of

the child.

(viii)*(a)* To foster parents, the foster care record for children in foster care currently placed in their home.

(b) However, information contained in records released by the Department of Human Services to the foster parent about the parents or guardians and any siblings not in the foster home:

(1) Will not be redisclosed by the foster parent; and

(2) Will only be used to assist the foster parent in the care of the child placed in the foster parent's home (see 9 CAR § 40-815, providing information to and gathering information from resource parents);

(ix)*(a)* To the Child Welfare Agency Review Board.

(b) However, at any board meeting no information which identifies by name or address any protective services recipient or foster care child shall be orally disclosed or released in written form to the general public.

(x) To the Division of Childhood and Early Childhood Education, including child welfare agency licensing specialists.

(xi) For any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity.

(xii) Upon presentation of an order of appointment, to a court-appointed special advocate.

(xiii) To the attorney ad litem for the child.

(xiv) For law enforcement or the prosecuting attorney upon request.

(xv) To circuit courts, as provided for in the Arkansas Juvenile Code of 1989, Arkansas Code § 9-27-301 et seq.

(xvi) In a criminal or civil proceeding conducted in connection with the administration of any such plan or program.

(xvii) For purposes directly connected with the administration of any of the state plans as outlined.

(xviii) For the administration of any other federal or federally assisted

program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need; or

(xix)*(a)* To individual federal and state representatives and senators in their official capacity, and their staff members, with no redisclosure of information.

(b) No disclosure shall be made to any committee or legislative body of any information which identifies by name or address any recipient of services.

(xx) To a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury.

(xxi) To a person, provider, or government entity identified by the licensee or the state agency as having services needed by the child or his or her family.

(xxii) To volunteers authorized by the licensee or the state agency to provide support or services to the child or his or her family at the discretion of the licensee or the state agency and only to the extent information is needed to provide the support or services.

(xxiii)*(a)* To a person, agency, or organization engaged in a bona fide research or evaluation project that is determined by the Division of Children and Family Services to have value for the evaluation or development of policies and programs within the Division of Children and Family Services.

(b) Any confidential information provided for a research or evaluation project shall not be redisclosed or published.

(xxiv)To a child fatality review panel as authorized by the Department of Human Services.

(xxv) To a Child Welfare Ombudsman.

(2) Any data, records, or documents described above that are released to a law enforcement agency, the prosecuting attorney, or a court by the Department of Human Services are confidential and shall be sealed and not redisclosed without a protective order to ensure that items of evidence for which there is a reasonable expectation of privacy are not distributed to persons or institutions without a legitimate interest in the evidence.

(d) **Foster care and adoptive records.**

(1) Foster home and adoptive home records are confidential and shall not be released except:

(A) To the foster parents or adoptive parents;

(B) For purposes of review or audit, by the appropriate federal or state agency;

(C) Upon allegations of child maltreatment in the foster home or adoptive home, to the investigating agency;

(D) To the Child Welfare Agency Review Board;

(E) To the Division of Children and Family Services of the Department of Human Services and the Department of Education, including child welfare agency licensing specialists;

(F) To law enforcement or the prosecuting attorney, upon request;

(G) To a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury;

(H) To individual federal and state representatives and senators in their official capacity, and their staff members with no redisclosure of information;

(I) No disclosure shall be made to any committee or legislative body of any information that identifies by name or address any recipient of services; and

(J) To the attorney ad litem and court-appointed special advocate, the home study on adoptive family selected by the Department of Human Services to adopt the juvenile.

(2)(A) Any person or agency to whom disclosure is made shall not disclose to any other person reports or other information obtained.

(B) Any person disclosing information in violation of Arkansas Code § 12-18-104 shall be guilty of a Class A misdemeanor.

(C) Nothing in this section shall be construed to prevent subsequent disclosure by the child or his or her parent or guardian.

(3) The Family Service Worker may by law sign for releases of information for children in Department of Human Services custody.

(4) The Family Service Worker must present a copy of the custody order to

receive medical and school records.

(5)(A) The CFS-4000 or DHS 81: Consent for Release of Information must be signed by the parent to receive copies of parent's records.

(B) However, the parent's signature is not necessary for obtaining records for the child.

(6) An attorney ad litem shall be provided access to all records relevant to the child's case, including, but not limited to, school records, medical records, juvenile court records, and Department of Human Services records to the extent permitted by federal law.

(e) **Adoption records.**

(1) Nonidentifying information from finalized records can only be released by the Arkansas mutual consent voluntary adoption registry.

(2) Identifying information from a finalized record can only be released by court order.

(f) **Release of information requests regarding a child in foster care.**

(1)(A) When a release of information regarding a child is requested, the FSW shall take the necessary steps to guard the confidentiality of personal information.

(B) The steps include:

(i) Ensuring that no identifying or potentially harmful information on a child is released; and

(ii) The consent shall be reviewed and approved by the Office of Chief Counsel.

(C) Court orders that direct the release of specific information to specified offices, agencies, or people will be construed as proper consent for release of information.

(D)(i) No other consent is necessary.

(ii) However, the Office of Chief Counsel will be informed whenever such a release of information is being made.

(2) Children in foster care may appear in publications such as the school yearbook, school newspaper, youth group newsletter, and similar publications or

platforms that would be considered normal and age-appropriate without a media release as long as they are not identified as being in foster care.

(3)(A) Requests for media releases that would not be considered normal and age appropriate include requesting permission to release photographs, voice reproductions, slides, video tapes, movie films, promotional pamphlets, news releases, etc.

(B) The FSW will review the contents of such release along with the Office of Chief Counsel and make any necessary modifications.

(C) Consideration will be given to the protection of the child's identity and assurances that the contents of the material released will present the child in a light that would not be distasteful or negative to the child.

(D) The Director of the Division of Children and Family Services or designee will be consulted in matters that may reflect on the Division of Children and Family Services.

(E) In cases of consents for coverage by news media, consultation will also be sought from the:

(i) Department of Human Services Director of Communications; and

(ii) Child's attorney ad litem.

(F) The foster parents and other placement providers will be informed of these policies.

(4) The Adoption Specialist must obtain documented consent from a child twelve (12) years of age or older, to show photographs for recruitment of an adoptive family.

(g) **Freedom of Information Act.**

(1)(A) Personnel records can be disclosed to the public, unless to do so would clearly be an unwarranted invasion of privacy.

(B) Therefore, the Department of Human Services cannot release the Social Security number, school transcripts, or PPES information of any staff unless that person has been suspended or terminated as a result of his or her PPES score.

(C) Grievance information becomes public record after the grievance

process is completed if a grievance is appealed to the State Grievance Review Committee.

(D) If the grievance is not appealed to the state level, the discipline does not become public record.

(E) See Arkansas Code § 25-19-105.

(2) Any data, records, reports, or documents that are created, collected, or compiled by or on behalf of the Department of Human Services, the Division of Arkansas State Police, or other entity authorized under the Child Maltreatment Act, Arkansas Code § 12-18-101 et seq., to perform investigations or provide services to children, individuals, or families shall not be subject to disclosure under the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

Subpart 3. Referrals to Assess Family Strengths and Needs

9 CAR § 40-301. Prevention services.

(a) **Overview.**

(1)(A) Prevention services are designed to reduce the likelihood of future child maltreatment by providing interventions to:

(i) Help caregivers in their child-rearing role;

(ii) Strengthen family functioning; and

(iii) Promote the healthy development of children.

(B) Services may be provided directly by Division of Children and Family Services staff via purchased services, by referral to another appropriate agency, or

some combination of these options.

(C) Examples may include, but are not limited to, parenting education and service referrals such as counseling or Supplemental Nutrition Assistance Program (SNAP).

(D) A family's participation in a prevention services case is voluntary.

(2) If the needs of the family require only a referral for services and do not require further follow-up from the division, division staff will make the necessary referrals as soon as possible but are not required to open a prevention services case for the family in the division's information management system.

(3)(A) If the family needs assistance beyond a single referral to another community provider and consents to participate in a prevention services case, the division will open a prevention services case for the family in the division's information management system.

(B) Prevention services cases are generally time-limited but may remain open for the duration necessary for appropriate service provision.

(C) The division will close a prevention services case upon request of the caregivers.

(4)(A) The division will complete the division's approved safety and risk assessment tools for households involved in prevention services cases.

(B) Prevention services cases opened from differential response or investigative pathways will have already had initial risk assessments in the course of differential response or an investigation.

(C) Please see below for more information regarding how a prevention services case may be opened following a differential response or investigation.

(5)(A) The division will collect and assess information about the family's strengths and needs utilizing the division's approved family assessment tool.

(B) For any prevention services case open longer than thirty (30) days, the division will also develop a prevention services case plan with the family within that thirty-day period.

(C) Case plan services and supports will be based on the needs and

strengths identified via the division's approved family assessment tool.

(D) The assigned Family Service Worker (FSW) will maintain regular contact with family as needed based on the risk assessment rating.

(E) If the risk assessment rating is low or moderate, contact should be at least weekly during the first month of the case and at least monthly thereafter.

(F) For risk assessment ratings of high or very high, at least weekly contact is recommended throughout the life of the case or until measurable risk reduction has occurred.

(6) If a safety threat is identified or child maltreatment is suspected at any point during an interaction with a household with a prevention services referral, division staff will fulfill their mandated reporter duty by making a report to the Child Abuse Hotline.

(b) **Traditional prevention services cases.**

(1)(A) The division will accept referrals for households in need of assistance for a wide range of services based on the assessed needs of the household.

(B) Such referrals will not be accepted through the Child Abuse Hotline as child maltreatment reports.

(C) Rather, a household member may request a prevention services case from the division supervisor in their local Department of Human Services office if they feel they are in need of services.

(D)(i) If the family accepts, a prevention services case will be opened.

(ii) Prevention services cases may be eligible for Family First prevention services.

(E)(i) As such, foster care candidate eligibility screens must be completed for each prevention services case.

(ii) Cases determined to be eligible as a foster care candidate must also have a prevention plan completed.

(c) **Prevention services case following a child maltreatment investigation.**

(1) A prevention services case will be offered when the division has contact with a household through an investigation if the division's approved safety and risk

assessment results recommend opening a case, but the investigation is unsubstantiated.

(2) The goal of the prevention services case in these instances is to provide services to strengthen the family and prevent future maltreatment.

(d) **Prevention services for underage juvenile offenders.**

(1) A prevention services case may be provided to a family when one (1) of the household members is an underage juvenile offender (UJO).

(2) The division will offer services to the caregivers for the UJO to include, but not be limited to, referrals for offender treatment and collaborating with the child's school to ensure safety of the child or other children in the classroom.

(e) **Prevention services following differential response.** For families involved in differential response that require services beyond sixty (60) days to remedy the conditions or issues that resulted in the child maltreatment report sent to the differential response pathway, those services may be offered through a prevention services case (see 9 CAR § 40-302, differential response, for more information), particularly if the division's approved safety and risk assessment results recommend opening a case.

(f) **Prevention services via family in need of services.**

(1) There are some situations in which a judge may order family services for a household through a Family In Need of Services (FINS).

(2) The agency will provide such family services through the opening of a prevention services case (see 9 CAR § 40-341, family in need of services, for more information).

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-302. Differential response.

(a) **Overview.**

(1)(A) Differential response (DR) is a family engagement approach that allows the Division of Children and Family Services to respond to reports of specific, low risk allegations of child maltreatment with a family assessment approach rather than a traditional investigative response.

(B) The goals of differential response are to prevent removal from the home and engage and strengthen the families involved.

(C) As with investigations, differential response is initiated through accepted Child Abuse Hotline reports, focuses on the safety and well-being of the child, and promotes permanency.

(D) Due to variations in the severity of reported maltreatment, having two (2) different response options allows for a differential response or an investigation, whichever is most appropriate, to respond to reports of child maltreatment.

(2)(A) Investigations require the gathering of forensic evidence in order to formally determine whether there is a preponderance of evidence that child abuse or neglect has occurred.

(B)(i) Differential response is an approach that uses a nonadversarial, nonaccusatory family assessment approach.

(ii) With DR, there is no determination of "true" or "unsubstantiated", and no one is identified as a perpetrator or offender.

(C) Development of a family's support network, community involvement, and connecting families to informal, supportive resources in their local communities are crucial aspects to a successful intervention for all types of cases, but particularly for DR.

(3) DR involves a comprehensive and collaborative family assessment that includes an assessment of:

(A) The household strengths and acts of protection;

(B) The household safety and risks; and

(C) Any underlying issues, needs, or additional child maltreatment

concerns that may not have been identified in the original hotline report.

(4)(A) Differential response also partners with families to build upon strengths identified during the family assessment process as well as to provide services to meet the family's identified needs and support positive parenting.

(B) The information obtained through the family assessment will be used to create a family plan with the family, if applicable.

(C) Services within the family plan may include referrals, formal or informal services, and/or supports.

(D) Services will be put into place to:

(i) Strengthen existing acts of protection with the family;

(ii) Meet the needs of the family; and

(iii) Address the conditions or issues that resulted in the child maltreatment report.

(5) The information obtained through the DR process will be used to create a family plan, if applicable, which will be designed to strengthen protective factors within the family and mitigate any risk factors facing the family.

(b) **Differential response eligibility criteria.**

(1) All of the following factors must be present for a report to be assigned to differential response unless the exceptions on the following page apply:

(A) Identifying information for the family members and their current address or a means to locate them is known at the time of the report;

(B) Those alleged to be responsible for the allegations are parents, birth or adoptive, legal guardians, custodians, or any person standing in loco parentis;

(C) The family has no pending investigation or open services case of any kind;

(D) The children alleged to be maltreated, siblings, or other household members are not currently in the care and custody of the division or wards of the court;

(E) Protective custody of the children has not been taken or required in the current investigation; and

(F) The reported allegations shall only include:

(i) Inadequate supervision;

(ii) Inadequate food;

(iii) Inadequate clothing;

(iv) Inadequate shelter;

(v) Educational neglect;

(vi) Environmental neglect;

(vii) Lock out;

(viii) Medical neglect;

(ix) Human bites;

(x) Sprains/dislocations;

(xi) Striking a child seven (7) years of age or older on the face;

(xii) Striking a child with a closed fist; and

(xiii) Throwing a child.

(2) The allegations prohibit the report from being assigned to a differential response pathway:

(A) Inadequate supervision reports involving a child or children under five (5) years of age or a child five (5) years of age or older with a physical or mental disability which limits his or her skills in the areas of communication, self-care, self-direction, and safety will be assigned the investigative pathway;

(B) Educational neglect reports involving a child that was never enrolled in an educational program;

(C) Environmental neglect reports involving a child or children under three (3) years of age, and those situations in which the hotline assesses an immediate danger to the child's health or physical well-being based upon the severity;

(D) Lock out reports involving a child or children under ten (10) years of age, and those situations in which the hotline assesses an immediate danger to the child's health or physical well-being based upon the severity;

(E) Medical neglect reports involving a child or children under thirteen (13) years of age or a child with a severe medical condition that could become serious enough to cause long-term harm to the child if untreated will be assigned the

investigative pathway; and

(F) Reports of human bites, sprains or dislocations, striking a child seven (7) years of age or older on the face, striking a child with a closed fist, and throwing a child when these allegations occurred:

(i) Less than one (1) year ago; or

(ii) If the caller to the hotline can verify an injury either through physical signs (for example, scarring), medical information, dated photographs, or other forms of documentation, as applicable.

(c) **Differential response initiation timeframes.**

(1) Face-to-face contact with the child or children named in the report and at least one (1) parent or caregiver involved in a differential response report must take place in the victim child's or children's household within seventy-two (72) hours of receipt of the initial hotline report.

(2) All other household members must be seen face-to-face within five (5) days of receipt of the initial hotline report.

(d) **Safety and risk assessment.**

(1)(A) Upon initial contact, the division will complete the division's approved safety assessment.

(B) If a safety threat is identified and the safety assessment indicates the children are safe with a plan, the DR Worker will develop an immediate safety plan with the household and their identified network.

(C) The DR Worker will obtain approval of the immediate safety plan from the DR Supervisor or designee prior to leaving the home.

(D) The DR Worker will leave a copy or photo of the immediate safety plan with the household and their network.

(2) If a safety threat is identified and the safety assessment indicates the children are unsafe, the DR Worker will take a seventy-two-hour hold of the children in consultation with the DR Supervisor or designee.

(3) The safety assessment will be entered into the applicable information management system within two (2) business days of contact with the family and

updated as needed throughout the family's involvement with the division.

(4)(A) The division's approved risk assessment tool will be used to guide staff in their assessment of the likelihood of future maltreatment.

(B) The risk assessment tool will be completed in the applicable information management system as soon as there is enough information to do so, but no later than the conclusion of the DR and prior to any decision about case opening, if applicable.

(5)(A) Differential response cases are intended to be short-term lasting no longer than sixty (60) days.

(B) If a DR case is not closed by the end of sixty (60) days, then it will be closed or reassigned as a prevention services case or as an investigation as appropriate.

(e) **Differential response team.**

(1)(A) Family assessments will be conducted by specific differential response teams (division teams or contract provider teams) whose role is to assess for safety and strengths, identify service needs, and arrange for the services to be put in place.

(B) The local differential response team may consist of up to three (3) primary roles:

(i)*(a)* DR Supervisor.

(b) Provides management services including review and approval of assessments, case plans, and appropriateness of service referrals, case file documentation, service extensions, and requests to close family assessment cases;

(ii)*(a)* DR Worker.

(b) Initiates contact with family and assumes the role of the family's advocate and case manager; and

(iii)*(a)* DR Program Assistant or Assistants.

(b) Provides support and assistance as needed to the DR Worker and families involved in DR cases.

(2) At minimum, a local differential response team will be composed of a DR Supervisor and a DR Worker.

(f) **Reassignments from differential response to investigations.**

(1) A DR will be reassigned to the investigative pathway if the division:

(A) Is unable to conduct a safety assessment; or

(B) Identifies a safety threat and the caregiver is assessed to be a risk to a vulnerable population.

(2)(A) The division's approved risk assessment tool assesses the likelihood of future maltreatment within that household.

(B) The risk assessment does not serve as the sole determinant when assessing if a caregiver poses a risk to a vulnerable population which includes without limitation children, the elderly, persons with a disability, and persons with a mental health illness.

(C) A separate assessment of whether a caregiver poses a threat to a vulnerable population must be conducted before requesting a DR to be reassigned to the investigative pathway.

(D) The following factors will be considered when determining whether an offender poses a risk of maltreatment to a vulnerable population:

(i) The severity of the child maltreatment;

(ii) The nature and severity of an injury or other adverse impact caused by the child maltreatment;

(iii) The current or future access the caregiver has or could have to a vulnerable population;

(iv) The caregiver's previous child maltreatment history and whether there are similar fact patterns related to the current allegation and past child maltreatment history;

(v) Subsequent reports of child maltreatment against the caregiver; and

(vi) Criminal history of the offender.

(3) Additionally, if it is determined that there are additional children in the home who were not included in the Child Abuse Hotline report and whose ages would prohibit assignment to the differential response pathway, the DR Supervisor and Worker will assess on a case-by-case basis whether a case will remain a DR case or be

reassigned to the investigative pathway.

(4) Further, if upon initial contact with the family an additional Priority II child maltreatment allegation (not related to the allegation connected to the DR referral provided by the Child Abuse Hotline) is identified by the DR team, the DR Worker will contact the division DR Program Manager or designee to add the additional Priority II allegation to the DR referral.

(5) If upon initial contact with the family a Priority I child maltreatment allegation is identified by the DR team, the DR Worker or designee will immediately call the Child Abuse Hotline to report the new Priority I allegation and then notify the DR Program Manager or designee of the new Priority I report.

(6)(A) If at any time during the DR service delivery period the DR Worker, network member, contract provider, or other service provider has reasonable cause to believe that a safety threat is present and, as such, the child's health or physical well-being are in immediate danger (as related to the allegation or allegations for which the initial DR referral was made), then an immediate safety plan will be developed and implemented with the family.

(B) If an immediate safety plan cannot mitigate the safety threat, the DR Supervisor or designee will determine if taking protective custody is necessary and if at any point, in consultation with the division DR Program Manager or designee, whether the DR should be reassigned to the investigative pathway due to the caregiver posing a risk to a vulnerable population.

(7) If at any time during the DR service delivery period the DR Worker, contract provider, or other service provider identifies a new child maltreatment allegation (not related to the allegation connected to the DR referral), a call will be made immediately to the Child Abuse Hotline by the individual who suspects the new child maltreatment allegation.

(g) **Reassignments from investigations to differential response.** If upon initial review of the investigation referral it is determined that the referral is eligible for differential response, the local division Supervisor may send an email request to the Child Abuse Hotline to assess for reassignment to the differential response pathway.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-303. Receipt and assignment of differential response referral.

(a) Upon receipt of the DR referral from the Child Abuse Hotline, the Differential Response (DR) Supervisor or designee will:

(1) Determine if the referral meets the criteria for differential response by completing a child maltreatment history check on the family to determine if there is an open case or investigation;

(2) Contact the DR Program Manager or designee to reassign the DR to the investigative pathway if it does not meet DR criteria; and

(3) Review and assign differential response reports to the appropriate DR Worker no later than two (2) hours after receipt of reports, excluding evenings, weekends, and holidays, provided initial face-to-face contact with the victim child or children and at least one (1) parent/caregiver is made in the home within seventy-two (72) hours of receipt of initial hotline report.

(b) The DR Program Manager or designee will reassign the referral to the investigative pathway (hotline call not required) if the DR referral is determined to be ineligible.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-304. Differential response initiation and family assessment.

(a) The Differential Response (DR) Supervisor will:

(1)(A) Assign each new report to a DR Worker within two (2) hours of receipt from the DR Program Manager or designee.

(B) Initial face-to-face contact with the victim child or children and at least one (1) parent or caregiver must be made in the home within seventy-two (72) hours of receipt of initial hotline report;

(2) Conference with the DR Worker:

(A) Immediately upon the identification of a safety threat; and

(B) Within twenty-four (24) hours (excluding weekends and holidays, in which case the conference will take place the next business day) after the DR Worker's initial face-to-face contact with the child or children named in the report and at least one (1) parent/caregiver and identify a plan for the next steps to be taken;

(3) Document all supervisor activities in the Division of Children and Family Services' information management system within two (2) business days of completion of each activity;

(4) Regarding families with whom the DR Worker cannot make face-to-face contact, assess information and determine whether DR Worker has met due diligence no later than the seventh day after case assignment; and

(5) Provide consultation to the DR Worker as appropriate.

(b) The Differential Response (DR) Worker will:

(1) Prepare for meeting the family by completing the following activities prior to making initial face-to-face contact with the family:

(A) Interview other persons, including the individual or individuals who called the report into the hotline, with information listed on the report;

(B) Conduct a Division of County Operations records check of members of the household;

(C) Conduct a history search in the Division of Children and Family

Services' information management system prior to contacting the family unless the report is received after hours or during the weekend or a holiday; and

(D) Contact the family by phone within twenty-four (24) hours of case assignment if a phone number is provided in the report and if appropriate considering initiation timeframe requirements to:

(i) Explain differential response;

(ii) Schedule the initial in-home family visit that will include at least the child or children named in the report and one (1) parent/caretaker; and

(iii) Verify the names and dates of birth of all family members and other persons living in the household;

(2) Consider the DR report initiated when:

(A) The health and safety of the child named in the report in the family's household has been assessed within seventy-two (72) hours from the time the referral was received from the Child Abuse Hotline, and the DR Worker has also met with at least one (1) parent/caregiver in the home within seventy-two (72) hours from the time the referral was received at the Child Abuse Hotline (based on the reported needs and safety issues of the family, DR Supervisor may require that the initial contact with the family occur sooner than seventy-two (72) hours);

(B)(i) A safety assessment of the child named in the report could not be made but due diligence has been exercised and documented within seventy-two (72) hours of receipt of the hotline referral.

(ii) Due diligence must include making an announced (or unannounced, if needed) visit to the child's home at least three (3) times at different times of the day or on different days (provided the three (3) visits are within the appropriate DR initiation timeframes) in an attempt to assess the health and safety of the children named in the report.

(iii) In addition, completion of as many of the following activities necessary to meet due diligence in establishing face-to-face contact with the children named in the report and at least one (1) parent/caretaker:

(a) Contacting the reporter again;

(b) Visiting or contacting the child's school, child care facility, and all other places where the child is said to be located;

(c) Sending a certified letter to the location given by the reporter, if attempts to locate the child have failed;

(d) Contacting appropriate local Division of County Operations staff and requesting research of the Arkansas Integrated Eligibility System (ARIES) and other files to obtain another address;

(e) Asking the local, county, and state law enforcement agencies to check their records for information that may locate the child and family;

(f) Asking relatives and friends of the subjects to provide information to help locate the subjects;

(g) Contacting the local post office, utility companies, and schools to request a check of their records;

(h) Conducting a CLEAR or similar records search to attempt to locate the family; and

(i) Complete other actions listed on the CFS-155: Unable to Locate Checklist.

(iv)*(a)* If, after completion of all the due diligence activities listed above, no contact is made with the family by the sixth business day after case assignment, document information in a case contact.

(b) The DR Supervisor will assess the information and determine whether due diligence has been met no later than the seventh day after case assignment.

(v) If DR Supervisor deems that due diligence has been met, close the assessment as unable to locate;

(3) Provide the following information to the parent/caregiver and other household members during the initial in-home visit:

(A)(i) Explanation of differential response including the disclosure that the DR Worker must assess the safety of the child or children as well as the need for services, and that the Division of Children and Family Services must address any safety

threats or service needs as appropriate.

(ii) If the family will not allow the worker access to the child or children, the family has declined family assessment services (see 9 CAR § 40-305, management of family's refusal to participate, for more information); and

(B) PUB-85: Differential Response: A Family-Centered Response to Strengthen and Support Families;

(4) Gather information during the initial in-home visit through the activities listed below:

(A) Identify information and legal relationships of all household members;

(B) Obtain the names and addresses of any noncustodial parents;

(C) Obtain DHS-4000: Consent for Release of Information signed by a family member with the authority to give consent as needed; and

(D)(i) Complete a safety assessment for the family.

(ii) If the safety assessment identifies safety threats, the DR Worker will contact the DR Supervisor to discuss the results of the safety assessment and corresponding actions that will take place based on those results and as informed by professional judgement;

(5) Request a supervisor conference to review and discuss case information (meaning, allegations, risk or safety threats, immediate needs, and other case-specific information);

(6) Document all activities, including the safety assessment, in the applicable information management system within two (2) business days after they are completed;

(7) Visit with all other household members within five (5) days from the time the referral was received at the Child Abuse Hotline; and

(8) Update the safety assessment in the applicable information management system for the family after all household members have been contacted.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-305. Management of family's refusal to participate.

(a)(1) If the DR Worker has been unable to conduct a safety assessment or is unable to assess underlying issues or additional child maltreatment concerns that may not have been identified in the original hotline report, then the DR Worker will inform the family, if reasonably possible, that the DR Worker may refer the family to the investigative pathway if there are safety threat concerns and the caregiver poses a risk to a vulnerable population.

(2) The DR Worker will then conference with DR Supervisor immediately to discuss the need or lack thereof to contact DR Program Manager or designee for reassignment of case to the investigative pathway.

(b)(1) The DR Supervisor will discuss and assess case information and possible referral to the investigative pathway with the DR Worker.

(2) The primary consideration for reassigning a report to the investigative pathway is whether the caregiver poses a risk to a vulnerable population.

(3) If it is determined that safety threats exist or are likely to exist based on the initial interaction with the family and the caregiver poses a risk to a vulnerable population, the DR Supervisor will contact the Division of Children and Family Services DR Program Manager or designee immediately to request that the report be reassigned to the investigative pathway.

(c) The DR Program Manager will reassign any DR case in which the DR Worker is unable to conduct a safety assessment to the investigative pathway if the assessment is that the caregiver poses a risk to a vulnerable population.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-306. Differential response services management.

(a) The DR Worker will:

(1)(A) Engage the household in a comprehensive and collaborative family assessment of the family's strengths and needs and gather other relevant, corresponding information within fourteen (14) days of receipt of referral from the Child Abuse Hotline.

(B) The family assessment may include:

(i) Family's financial status;

(ii) Basic educational screening for the children;

(iii) Physical health, mental health, and behavioral health screening for all family members;

(iv) Names and addresses of those persons who provide a support system for the family; and

(v) Names and addresses of any service providers that have been or are currently involved in providing services to the family;

(2) Initiate services to meet any immediate needs of the family, including:

(A) Food;

(B) Shelter; and

(C) Clothing;

(3) Place a copy of the family assessment in the family record;

(4)(A) Maintain a minimum of twice weekly contacts with the household, which must include contact with the children as appropriate in the household, unless the DR supervisor and the household determine that the contacts should occur more frequently.

(B) While the initial home visit/contact must be conducted by the DR

Worker and include face-to-face contact with at least the child or children named in the report and one (1) parent/caregiver, the DR Worker may ask the DR Program Assistant to make subsequent contacts with the family provided the majority of the face-to-face contacts are conducted by the DR Worker.

(C) Children do not necessarily have to be seen at each subsequent face-to-face family contact:

(i) If the primary purpose of a specific contact is to discuss issues and/or services relating directly to the parent or parents; and

(ii) Provided the DR Worker has assessed, based on previous contacts and other information, that the children's safety:

(a) Is ensured for the time being; and

(b) Will be reassessed at a subsequent face-to-face contact with the children not to exceed two (2) weeks from the date of the contact in which the children were not present;

(5)(A) Develop a family plan with the household.

(B) The family plan will be completed within fourteen (14) days of receipt of the referral to the hotline.

(C) The family plan may be modified and revised as needed;

(6) Identify and implement services to address the issues that resulted in the hotline report as well as any additional child maltreatment concern that may not have been identified in the original hotline report;

(7) Assess the household's reasonable progress in resolving the issue that brought them to the attention of the Division of Children and Family Services;

(8) Maintain ongoing contact with the involved service providers as appropriate;

(9) Create and maintain community partnerships that will benefit DR client outcomes;

(10) Develop an aftercare plan with the household;

(11) Submit the following documents to the DR Supervisor before formalizing case closure with the family:

(A) Case closing summary;

(B) Child and family service aftercare plan;

(C) Case note documentation of interviews, contacts, and activities;

(D) Provider treatment reports; and

(E) Updated family assessment and safety assessment;

(12) Participate in a closure staffing with the DR Supervisor to discuss the closure request; and

(13)(A) Close the case in the division's information management system upon receiving DR Supervisor approval for case closure.

(B) The DR Program Assistant will:

(i) Help ensure clients are meeting the family plan goals in a DR case;

(ii) Assist with referrals to services identified in the family plan;

(iii) Provide transportation for clients as needed;

(iv)*(a)* Assist DR Worker in maintaining contact with the family provided the DR Worker conducts the initial face-to-face contact and the majority of subsequent family contacts.

(b) Some PA contacts may be made by phone provided documentation supports that health and safety of children will still be ensured;

(v) Conference with DR Worker on household progress;

(vi) Create and maintain community partnerships that will benefit DR client outcomes; and

(vii) Document all activities in the division's information management system within two (2) business days of completion.

(b) The DR Supervisor will:

(1) Conference with the DR Worker and DR Program Assistant as needed regarding the family's differential response case and associated services;

(2) Review and approve family assessments, family plans, and appropriateness of service referrals;

(3) Review DR case closure request including:

(A) Case closing summary;

(B) Child and family services aftercare plan;

(C) Case note documentation of interviews, contacts, and activities;

(D) Provider treatment reports; and

(E) Updated family assessment and safety assessment;

(4) Hold a closure staffing with the DR Worker to discuss the closure request and determine if the request will be approved or denied; and

(5) Approve or deny case closure request as appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-307. Child Abuse Hotline for child maltreatment reports.

(a) Pursuant to Acts 1997, No. 1240, the Department of Human Services and the Division of Arkansas State Police entered into an agreement for the Crimes Against Children Division to assume responsibility for the administration of the Child Abuse Hotline.

(b)(1) All child maltreatment allegations are to be reported to the Child Abuse Hotline.

(2) No privilege or contract shall prevent anyone from reporting child maltreatment when the person is a mandated reporter (see 9 CAR § 40-102, definitions, for more information).

(c) No privilege shall prevent anyone, except between a client and his or her lawyer or minister or Christian Scientist practitioner, and any person confessing to or being counseled by the minister, from testifying concerning child maltreatment.

(d)(1) The Child Abuse Hotline must accept reports of alleged maltreatment when either the child or his or her family is present in Arkansas or the incident occurred in

Arkansas.

(2) Another state may also conduct an investigation in Arkansas that results in the offender being named in a true report in that state and placed in that state's child maltreatment central registry.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-308. Child Abuse Hotline acceptance and assignment of maltreatment reports.

(a) The Child Abuse Hotline worker will:

(1) Receive and document all child maltreatment allegation reports with sufficiently identifying information as defined by Arkansas law;

(2)(A) Receive fax transmission in nonemergency situations by identified reporters who provide their:

(i) Name;

(ii) Phone number; and

(iii) Email address (for online reporting).

(B) Confirm receipt of fax transmission via a return fax transmission;

(3)(A) Conduct a history check on all reports unless calls waiting to be answered by the hotline have been waiting for fifteen (15) minutes or longer.

(B) History checks will be conducted on serious maltreatment allegations or allegations involving children three (3) years of age and younger regardless of wait time;

(4) Attempt to secure all information requested in each screen within the referral section of CHRIS and elicit all information requested on the "referral" and

"narrative" screens:

(A) Reason or reasons the reporter suspects child maltreatment and how the reporter acquired the information;

(B) Current risk of harm to the child;

(C) Mental and physical condition of alleged offender;

(D) Potential danger to staff assessing the report;

(E) Identity and location of possible witnesses or persons knowledgeable about the alleged child maltreatment;

(F) Relevant addresses and directions; and

(G) Licensing authority and facility involved (if applicable);

(5) Prioritize and determine the appropriate investigating agency (either the Crimes Against Children Division or the Division of Children and Family Services) as outlined in the Department of Human Services and Division of Arkansas State Police agreement, to include, pursuant to Arkansas Code § 12-18-303, a referral to the Division of Children and Family Services Prevention and Reunification Unit for a secondary review of an accepted report that contains no reporter information and collateral information as outlined in the department and the Division of Arkansas State Police agreement;

(6) Forward report to appropriate investigating agency (either the Crimes Against Children Division or the Division of Children and Family Services) for investigation with any pertinent Child Maltreatment Central Registry information, and the Division of Children and Family Services may refer for assessment;

(7) Inform the caller if the report does not constitute a report of child maltreatment and make appropriate referrals;

(8)(A) Notify each mandated reporter who makes a call to the hotline if the mandated reporter's call is not accepted or is screened out on a subsequent hotline supervisor review.

(B) Said notification should be made within forty-eight (48) business hours;

(9) Notify on-call Division of Children and Family Services or Crimes Against

Children Division staff by telephone for any Priority I report received after business hours or on holidays;

(10) Provide local law enforcement with the name and contact information for the appropriate on-call staff employee at the Division of Children and Family Services if local law enforcement contacts the hotline due to a seventy-two-hour hold initiated on a child or if a hold needs to be taken on a child to protect the child; and

(11) If at any time the system should be inoperable or the respective entities do not have access to the computerized entry, maltreatment reports shall be forwarded by telephone.

(b) The Child Abuse Hotline supervisor will ensure that each Child Abuse Hotline worker has access to a comprehensive and current listing of on-call Family Service Workers.

(c) The Division of Children and Family Services Prevention and Reunification Unit will:

(1) Review accepted reports that flagged for secondary review by the Child Abuse Hotline due to the report not containing reporter information or collateral information as outlined in the department and Division of Arkansas State Police agreement and make determinations based on the following considerations:

(A) Review of the report to ensure it meets all acceptance requirements under Arkansas Code §§ 12-18-303 – 12-28-310; and

(B) Review of all relevant information pertaining to the report, to include, but not be limited to:

(i) Current report to ensure:

(a) Information is otherwise sufficient for the department to make contact with the alleged victim; and

(b) The current allegations are not identical to a previous report that has had a prior preliminary investigation within the past six (6) months and was administratively closed;

(ii) Previous investigations of child maltreatment pertaining to the current alleged offender; and

(iii) Previous case history in CHRIS; and

(2) After secondary review of the accepted child maltreatment report:

(A) Assign credibly accepted reports to the appropriate county office investigative or differential response pathway; or

(B) Complete steps to screen out the accepted referral under Arkansas Code § 12-18-303.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2020"

9 CAR § 40-309. County office interaction with Child Abuse Hotline.

The county supervisor or designee will:

(1) Take the information on child maltreatment as directed in 9 CAR § 40-308 if a reporter contacts the county office and refuses to call or has been unable to contact the Child Abuse Hotline;

(2)(A) Forward the information to the Child Abuse Hotline for a determination regarding whether the report will be accepted.

(B) The Child Abuse Hotline will prioritize the report and, if accepted, refer for assessment by entering the report into the "Referral" section of the Division of Children and Family Services information system.

(C) Once a report is entered in the division's information system, workers with proper security will have access to referral, investigative, and case information.

(D) County office staff are strictly prohibited from entering reports into the division's information system.

(E) Any unauthorized use or altering of this information is also strictly prohibited;

(3) Check the computer at least once in the morning and once in the afternoon for child maltreatment report transmissions;

(4) Acknowledge receipt of Priority I transmissions within two (2) working hours and receipt of Priority II transmissions within three (3) working hours;

(5) Advise the Child Abuse Hotline promptly of after-hours on-call Family Service Workers' names by entering information into the "Organization" screens in the division's information system;

(6) Establish procedures to ensure the security and confidentiality of reports at the local level and the child maltreatment assessment files when not in use;

(7) Notify Prosecuting Attorney by letter of any failure by a mandated reporter to report suspected child maltreatment; and

(8) Notify Prosecuting Attorney by letter when a reporter makes a report without good cause.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2020"

9 CAR § 40-310. County office secondary review requests from the Division of Children and Family Services Central Office and requests for clearance of other reports from the Child Abuse Hotline.

(a) The FSW Investigative Supervisor or County Supervisor will:

(1) Determine if an accepted report meets the following secondary review request criteria:

(A) Report does not contain sufficient information for the Department of Human Services to make contact with the alleged victim; or

(B) The allegations are identical to a previous report that has had a prior

preliminary investigation within the past six (6) months and was administratively closed;

(2) If an accepted report meets one (1) of the secondary review request criteria above, forward the request with pertinent information to the Division of Children and Family Services Prevention and Reunification Unit for a secondary review; and

(3) If the accepted report does not meet one (1) of the secondary review request criteria, but there is otherwise reason to believe a registered report does not warrant assignment for investigation, contact a Child Abuse Hotline Supervisor for a review before the report is initiated and cite at least one (1) of the following reasons:

(A) The allegations would not constitute child maltreatment as defined in the Child Maltreatment Act, Arkansas Code § 12-18-101 et seq.; or

(B) The same incident involving identical alleged offenders and victims has already been assessed.

(b) Regarding reports that meet secondary review criteria, the division's Prevention and Reunification Unit will:

(1) Review the report and make determinations based on the following considerations:

(A) Review of the report to ensure it meets all acceptance requirements under Arkansas Code §§ 12-18-303 – 12-18-310;

(B) Review of all relevant information pertaining to the report, to include, but not limited to:

(i) Current report to ensure:

(a) Reporter or collateral information is available;

(b) Information is sufficient for the department to make contact with the alleged victim; and

(c) The current allegations are not identical to a previous report that has had a prior preliminary investigation within the past six (6) months and was administratively closed;

(ii) Previous investigations of child maltreatment pertaining to the current alleged offender; and

(iii) Previous case history in CHRIS; and

(C) Call to reporter (if known) to ascertain additional information on the allegation and related information to determine if report warrants assignment to field for investigation; and

(2) After secondary review of the accepted child maltreatment report:

(A) Assign credibly accepted reports to the appropriate county office investigative or differential response pathway; or

(B) Complete steps to screen out the accepted referral under Arkansas Code § 12-18-303.

(c) Regarding reports that do not meet secondary review criteria but otherwise does not warrant assignment for investigation, the Child Abuse Hotline Supervisor and appropriate hotline staff will:

(1) Determine whether to screen out the report; and

(2) Notify the CPS Manager and County Supervisor if the report is screened out.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2020"

9 CAR § 40-311. Child maltreatment reports involving allegations taking place in other states or countries.

(a) The Child Abuse Hotline Worker will:

(1) If the alleged offender resides in another state and the suspected maltreatment occurred in another state or country:

(A) Document receipt of the report;

(B) Forward the report to the Child Abuse Hotline of the state or country where the alleged offender resides or the incident occurred; and

(C) If child protection is an issue, forward the report to the Department of Human Services or the equivalent governmental agency of the state or country where the alleged offender resides; or

(2) If the alleged maltreatment occurred in another state, but the alleged offender is a resident of Arkansas and the report of child maltreatment or suspected maltreatment in the other state or country would also be child maltreatment in Arkansas at the time the incident occurred, refer the report to the Division of Children and Family Services or the Crimes Against Children Division as appropriate.

(b) The Division of Children and Family Services or the Crimes Against Children Division will:

(1) Contact the other state and advise them of Arkansas's willingness to assist its investigation;

(2)(A) Interview the alleged offender in an effort to assist the investigative agency from the other state or country.

(B) However, the investigative agency from the other state or country must take responsibility for the investigation; and

(3) Notify the alleged offender that if the allegation is determined to be true, the offender's name will be placed in the Child Maltreatment Central Registry.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2011"

9 CAR § 40-312. Child maltreatment reports involving allegations taking place in Arkansas with alleged parties to the report living outside of Arkansas.

(a) The Child Abuse Hotline Worker will, if the alleged maltreatment occurred in

Arkansas, but the victim, the parents, and/or the alleged offender no longer reside here, accept the report.

(b) The Division of Children and Family Services will:

(1) Contact the other state; and

(2) Request courtesy interviews with the out-of-state subjects of the report.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2011"

9 CAR § 40-313. Investigation of child maltreatment reports.

(a) **Overview.**

(1)(A) All reports of known or suspected child maltreatment are promptly investigated.

(B) The safety of the child is always the first priority during the course of a child maltreatment investigation.

(C) If a safety threat is identified, immediate steps will be taken to protect a maltreated child and any other child who may also be in danger under the care of the same alleged offender.

(2)(A) While the Department of Human Services Division of Children and Family Services is responsible for ensuring the safety of children in Arkansas, the Crimes Against Children Division collaborates with the Division of Children and Family Services to conduct investigations of child maltreatment allegations.

(B) The Division of Children and Family Services and Crimes Against Children Division will assess Priority I and Priority II referrals as outlined in the "Agreement Between the Department of Human Services and the Arkansas State Police" and is subject to renewal annually.

(C) To determine the individual responsibilities and operational protocol of the two (2) agencies, see the specifics of the agreement.

(D) The agreement is written in accordance with Acts 2007, No. 586, the Governor's Executive Order, and all applicable federal and state laws.

(3)(A) The Division of Children and Family Services and the Crimes Against Children Division, as appropriate, will issue notices regarding child maltreatment allegations to all persons pursuant to Arkansas Code § 12-18-501 et seq.

(B) The Division of Children and Family Services will issue notices in such a way as to ensure the rights to due process of the alleged offender and to protect others who may be at risk of harm from the alleged offender.

(b) **Investigation initiation timeframes.**

(1)(A) All investigations will begin within seventy-two (72) hours with the exception of investigations of the following allegations.

(B) These allegations will begin within twenty-four (24) hours:

(i) Allegations of severe maltreatment, excluding an allegation:

(a) Of sexual abuse if the most recent allegation of sexual abuse was more than one (1) year ago or if the alleged victim does not currently have contact with the alleged offender;

(b) Of abandonment and the child is in a facility;

(c) Of cuts, welts, bruises, or suffocation if the most recent allegation was more than one (1) year ago and the alleged victim is in the custody of the department; or

(d) In which the alleged victim is in a facility and does not currently have contact with the alleged offender;

(ii) The allegation is that a child has been subjected to neglect as defined in Arkansas Code § 12-18-103(14)(B) (in other words, Garrett's Law referral); or

(iii) A child has died suddenly and unexpectedly.

(2)(A) Investigations are considered to be initiated when, as age appropriate, the investigator conducts a face-to-face interview with the alleged victim outside the

presence of the alleged offender or observes the alleged victim outside the presence of the alleged offender, or the investigator has otherwise met due diligence.

(B) Once the investigation has begun, the primary focus will be to determine whether or not the alleged offender has access to the child and whether the child or any other children as well as any elderly persons or individuals with a disability or mental illness with whom the alleged offender works are at risk such that they need to be protected.

(c) **Notice of allegation.** The investigative agency at the local level is responsible for providing the notice of allegation to all applicable parties as outlined in 9 CAR § 40-1402, notices of allegations of child maltreatment.

(d) **At-risk determinations upon initiation.**

(1)(A) The investigative agency must gather necessary information to determine if children, the elderly, or individuals with disabilities or mental illness under the care of the alleged offender appear to be at risk of maltreatment by the alleged offender.

(B) Such information includes but is not limited to:

(i) Alleged offender's employer, including the physical address; or

(ii) Alleged offender's job duties at his or her employment and whether those duties result in the alleged offender:

(a) Working with children or otherwise engaging in paid or volunteer child-related activities;

(b) Working or volunteering with the elderly;

(c) Working or volunteering with an individual with a disability or mental illness; or

(d) Is a juvenile (and therefore has access to other juveniles in a school or similar setting).

(2) If so, the investigative agency must immediately ascertain the name and address of the person in charge of those activities.

(3)(A) The investigative agency supervisor and Area Director (as applicable) may consult with the Office of Chief Counsel, as necessary, prior to deciding whether

children, the elderly, or individuals with disabilities or mental illness appear to be at risk.

(B) If the investigative agency determines children, the elderly, individuals with disabilities or mental illness under the care of the alleged offender, or other juveniles are at risk of maltreatment by the alleged offender, then the investigative agency may notify the people and entities listed below of the hotline report if the Director of the Division of Children and Family Services or designee approves the at-risk determination and gives written approval to the investigative agency to provide notifications of the at-risk determination to:

(i) The alleged offender's employer;

(ii) The school superintendent, principal, or a person in an equivalent position where the alleged offender is employed;

(iii) The person in charge of a paid or volunteer activity; and

(iv) The appropriate licensing or registering authority to the extent necessary to carry out its official responsibilities.

(4) The at-risk determination will be changed immediately if, upon further investigation, it is determined that the children under the care of the alleged offender are not at risk.

(e) **Overall investigation goals.**

(1) During the investigation of an allegation of child maltreatment, and if the alleged offender is a household member or lives in the home of the alleged victim, the assigned investigative agency will conduct an investigation to determine:

(A)(i) The existence, cause, nature, and extent of child maltreatment with particular attention to any of the Arkansas safety threats that may be present.

(ii) The Arkansas safety threats are:

(a) Caregiver caused serious physical harm to the child or made a plausible threat to cause serious physical harm in the current investigation or differential response (DR), as indicated by:

(1) Serious injury or abuse to the child other than accidental;

(2) Caregiver fears harming the child;

(3) Caregiver has threatened to cause harm or retaliate against the child;

(4) Caregiver has made substantial or unreasonable use of physical force; and

(5) Substance-exposed infant is in danger;

(b) Child sexual abuse is suspected, and circumstances suggest that the child's safety may be of immediate concern;

(c)(1) Caregiver is aware of the potential harm and is unwilling or unable to protect the child from actual or threatened serious harm by others.

(2) This may include physical abuse, emotional abuse, sexual abuse, sexual exploitation, trafficking, or neglect;

(d) Caregiver's explanation or lack of explanation for the injury to the child is questionable or inconsistent with the type of injury, and the nature of the injury suggests that the child's safety may be of immediate concern;

(e) Caregiver does not meet the child's immediate needs for supervision, food, and/or clothing;

(f) Caregiver does not meet the child's immediate needs for medical or critical mental health care (e.g., the child is suicidal or homicidal);

(g) Physical living conditions are hazardous and immediately threatening to the child's health or safety;

(h) Caregiver's substance abuse seriously impairs their ability to supervise, protect, or care for the child;

(i) Domestic violence exists, and offender behavior poses an imminent danger of serious physical or emotional harm to the child;

(j) Caregiver frequently describes the child in predominantly negative terms or acts toward the child in negative ways, and these actions make the child a danger to self or others, suicidal, act out aggressively, or severely withdrawn or anxious;

(k) Caregiver's mental instability, developmental status, or cognitive deficiency seriously impairs their current ability to supervise, protect, or care

for the child;

(l) Family currently refuses access to or hides the child and/or seeks to hinder an investigation/DR;

(m) The child may be in immediate danger because of current circumstances and because the caregiver severely maltreated a child in their care in the past (where the incident was resolved or unresolved) or because the caregiver has been unable to resolve a prior pattern of severe maltreatment; and

(n) Other act or omission by the caregiver that presents an immediate safety threat to the child (which requires specification if selected);

(B) The existence and extent of previous injuries; and

(C) The names and conditions of other children in the home.

(2) If the alleged offender is not a household member or does not live in the home of the alleged victim, the assigned investigative agency will conduct an investigation to determine:

(A) The existence, cause, nature, and extent of child maltreatment with particular attention to any of the Arkansas safety threats that may be present;

(B) The identity of the person responsible for the maltreatment;

(C) The existence and extent of previous maltreatment perpetrated by the alleged offender; and

(D) Factors influencing child vulnerability.

(3) In addition to the other information described in this section (more specifically the overall investigation goals in this subsection), the assigned investigative agency will also attempt to determine:

(A) The identity of the person responsible for the maltreatment;

(B) The relationship of the children with the parents or caretakers and their circumstances;

(C) The child's environment in terms of risk and protective factors; and

(D) All other pertinent information.

(4) Ultimately, the information described above that is collected during the fact-finding phase of the child maltreatment investigation allows the Division of Children

and Family Services to determine:

(A) If services are necessary to assist the household and allow the child to remain safely at home (per Arkansas Code § 12-18-604, the department has the authority to make referrals or provide services during the child maltreatment investigation);

(B) If separation of the child from the family is necessary to protect the health and safety of the child; and

(C) Whether there is a preponderance of the evidence (see definitions, 9 CAR § 40-102) to support the report.

(5) If at any time before or during an investigation it is determined that the alleged offender is not a caretaker of a child and the alleged victim has reached eighteen (18) years of age prior to notification, the child maltreatment investigation shall be closed notwithstanding any criminal investigation.

(f) **Reasonable efforts to prevent removal.**

(1) Throughout the investigation, the Division of Children and Family Services will ensure reasonable efforts are made to preserve the family and to prevent the need to remove the child from the household unless the immediate safety of the child warrants removal for the protection of the child.

(2) When the investigative agency's first contact with the family has occurred during an emergency in which the child could not safely remain in the household, even with reasonable services being provided, the Division of Children and Family Services will be deemed to have made reasonable efforts to prevent or eliminate the need for removal.

(g) **Investigation components.**

(1) The child maltreatment investigation will consist of, but is not limited to, completion of the Division of Children and Family Services' approved safety assessment and interviews with:

(A) Alleged victim;

(B) Parents, both custodial and noncustodial;

(C) If neither parent is the alleged offender, the alleged offender;

(D) Any siblings of the victim or other children under the care of the alleged offender;

(E) Current or past healthcare providers when the allegation of child maltreatment was reported by a healthcare provider;

(F) Any other household members; and

(G) Any other relevant collaterals.

(2)(A) Division of Children and Family Services staff are encouraged to bring child victims of Priority I reports involving sexual abuse, physical abuse, neglect, and witness to violence to the nearest Child Safety Center for the interview whenever available and appropriate.

(B) In some cases, it may also be appropriate to bring child victims of certain Priority II maltreatment reports to the nearest Child Safety Center for the interview.

(3)(A) The Division of Children and Family Services' approved safety assessment allows for a systematic review of potential safety threats and creates consistent thresholds for the presence of imminent danger of serious harm.

(B) Further, this safety assessment is designed to:

(i) Identify Arkansas safety threats in the household that affect the child's immediate safety at a point in time;

(ii) Guide the Family Service Worker (FSW) in determining whether the child can remain safely in the home with or without safety interventions; and

(iii) Determine what interventions will be initiated or maintained to provide appropriate protection.

(4)(A) The Division of Children and Family Services' approved safety assessment will be completed upon initial contact with the child and any household members present.

(B) The safety assessment will be entered into the applicable information management system within two (2) business days of contact with the household and updated as needed throughout the family's involvement with the Division of Children and Family Services.

(5)(A) Every subsequent contact with the family will include an assessment of any safety threats present as well as any acts of protection by the caregivers.

(B) The Division of Children and Family Services' approved safety assessment may be updated as needed in the Division of Children and Family Services' information system as the investigative agency gathers information through any additional child maltreatment interviews or review of applicable records and other sources of information pertinent to the investigation.

(C) All interviews must be completed by the investigator within thirty (30) calendar days of the receipt of the child maltreatment report.

(D) The interviews must be approved by the FSW Supervisor within forty-five (45) calendar days of the receipt of the child maltreatment report.

(6)(A) If the Crimes Against Children Division is assigned primary on an investigation and, after interviewing the alleged victim and completing Sections 1 and 2 of the Division of Children and Family Services' approved safety assessment tool, identifies a safety threat and the need for the Division of Children and Family Services to further assess the child's safety, the Crimes Against Children Division will immediately contact the Division of Children and Family Services for further assessment and completion of Sections 3 and 4, as applicable, of the safety assessment tool.

(B) The Division of Children and Family Services will then be assigned as the secondary investigator on that investigation.

(7)(A) Each investigative agency will enter its applicable safety assessment sections into the appropriate information management system within two (2) business days of the investigation initiation or identification of new safety threats, as applicable.

(B) The primary investigative agency is responsible for completing the Division of Children and Family Services' approved risk assessment tool for the household in the Division of Children and Family Services' information management system prior to investigation closure and prior to any decision regarding case opening.

(h) **Safety planning.**

(1)(A) If a safety threat is identified, safety planning is then required to implement specific actions to ensure a child's safety.

(B) If a safety threat is identified, there are only two (2) options to implement during the safety planning process:

(i) Develop an immediate safety plan to mitigate the identified safety threats to allow the child to remain safely in the home; or

(ii) Take protective custody and remove the child from the home.

(2)(A) If there are risk factors or evidence that maltreatment has occurred, but no safety threats are present, then neither an immediate safety plan nor removal of the child is necessary at that point in time.

(B) When no safety threats are present, per Arkansas Code § 12-18-1009, the parents retain the right to keep the child at home or to place the child outside the home.

(C) However, as appropriate, the FSW may make referrals or provide services during the child maltreatment investigation to address any risk factors.

(D) All referrals made or services provided during the child maltreatment investigation will be documented in the Division of Children and Family Services' information management system.

(3) Additional information regarding immediate safety plans and taking protective custody are as follows:

(A) **Immediate safety plans.**

(i)*(a)* When any safety threats are present, an immediate safety plan must be developed to address each identified safety threat if the child will remain in the home.

(b) An immediate safety plan is a written plan developed by Division of Children and Family Services staff in conjunction with the family and their network to address identified safety threats.

(c) The actions and any services needed to address safety threats contained in an immediate safety plan will depend on the dynamics of a particular household and their network.

(d) This documentation describing the actual use or consideration of using protecting interventions establishes reasonable efforts to prevent

removal of the child from the home.

(ii)*(a)* An immediate safety plan must be developed and receive Division of Children and Family Services supervisory approval prior to Division of Children and Family Services staff leaving the home.

(b) The immediate safety plan serves as a written agreement between the Division of Children and Family Services and the family.

(c) As such, a copy or picture of the plan will be provided to the caregiver and to other members participating in the plan prior to the Division of Children and Family Services staff person leaving the home.

(d) The immediate safety plan, if applicable, will also be documented in the appropriate information management system within two (2) business days of its creation.

(e) If any other actions were taken or services put in place to ensure the safety of the child victim or other children in the home, then these activities must also be documented in an applicable information management system within two (2) business days.

(iii)*(a)* Regardless of the actions included in an immediate safety plan, immediate safety planning and oversight on the part of the Division of Children and Family Services continues throughout involvement with the household as long as safety threats are present.

(b) The plan must be sufficient to manage and control safety threats based on a high degree of confidence that it can be implemented, sustained, and closely monitored by the Division of Children and Family Services in partnership with the household's identified network.

(c) The Division of Children and Family Services will ensure that the roles and responsibilities of the immediate safety plan are clearly described to and discussed with the people involved.

(iv) However, immediate safety plans may not:

(a) Make a change to the current physical or legal custody arrangement of the child; or

(b)(1) Otherwise limit the right of a parent or legal custodian to visit or have access to his or her child, including supervised visits, unless a dependency-neglect petition is first filed with the court to address identified safety threats and a corresponding court order is obtained to make a change to the current custody arrangements or otherwise limit the right of a parent or legal custodian to have access to his or her child.

(2) An alternate method of ensuring child safety must be implemented until the required court order is issued to alter custody or visitation arrangements.

(v)*(a)* To file a dependency-neglect petition to ensure a child's safety in the home, the Family Service Worker (FSW) will contact his or her Office of Chief Counsel attorney immediately (or at the start of the next business day if the safety assessment occurred after-hours or on the weekend) to request the Office of Chief Counsel to file the appropriate petition.

(b) It is crucial that the FSW, with support from his or her supervisor, determines exactly what the Division of Children and Family Services is requesting the court to order, if applicable, to address the identified dependency-neglect issues.

(vi)*(a)* If the requested court order is issued, the FSW will update the immediate safety plan, as applicable, that reflects the orders of the court as well as any other actions or information that need to be included in the immediate safety plan to ensure child safety.

(b) The FSW will thoroughly explain any of the changes to the caregivers, household members, and other individuals in the family's network who may be a part of the immediate safety plan.

(vii) **Order of less than custody.**

(a) An order of less than custody is one action that could potentially be included in an immediate safety plan (once the order is issued by a court), if appropriate.

(b) An order of less than custody legally restricts the alleged

offender from contact with the child while allowing the child to remain in the home with the nonoffending custodian (if the nonoffending custodian is already a legal custodian of the child) as part of the immediate safety plan.

(c) In addition to the situation above in which the nonoffending custodian is the legal custodian of the child and wants to restrict the alleged offender's access to the child, orders of less than custody may also be applicable to situations in which:

(1) The legal custodian placed or otherwise allowed the child to reside with another person for more than six (6) months;

(2) The legal custodian is named as an alleged offender in the investigation;

(3) The child's current caretaker and the Division of Children and Family Services assess that the legal custodian's (who is also the alleged offender) access to the child poses an immediate danger to the child's health or physical well-being;

(4) The Division of Children and Family Services has no immediate health or physical well-being concerns with the current placement; and

(5) The Division of Children and Family Services has determined that specific safeguards in the court order will ensure the child's immediate health and physical well-being while remaining in the current home.

(d) The Division of Children and Family Services will thoroughly assess for safety threats to ensure that an immediate safety plan is in place for a child before leaving that child in a home where the Division of Children and Family Services has petitioned the court for an order of less than custody.

(e) To file a dependency-neglect petition to obtain an order of less than custody, the FSW will contact the Office of Chief Counsel immediately to request the Office of Chief Counsel to file the appropriate petition.

(viii) **Immediate safety plan monitoring and assessment.**

(a) All immediate safety plans will be monitored via a face-to-face contact with the household (to include alleged victim or victims, alleged offender

or offenders, and any other children in the home) within at least seventy-two (72) hours and then via a minimum of weekly face-to-face contact for the remaining life of the immediate safety plan.

(b) In addition, the immediate safety plan will be formally reviewed within fourteen (14) days of its implementation.

(c) While the health and safety of the child is always assessed each time the Division of Children and Family Services comes into contact with the child, per Arkansas Code § 12-18-1001(d)(2)(A) – (B), the health and safety of the child and any corresponding immediate safety plan will be formally reassessed within thirty (30) days of the date on which the immediate safety plan was implemented.

(d) If after this formal reassessment is performed the Division of Children and Family Services determines that a substantial risk of harm to the health and safety of the child remains and that the immediate safety plan must stay in place to ensure the health and safety of the child, then the Division of Children and Family Services will file a petition for dependency-neglect (however, note that the Division of Children and Family Services may file a petition for dependency-neglect at any point, if needed, to ensure the health and safety of the child) unless the parent, guardian, or custodian is not:

(1) The alleged offender; or

(2) Alleged to have failed to protect the juvenile.

(e) If a case connect has already occurred, then the assigned FSW Caseworker and FSW Investigator who implemented the immediate safety plan will collaborate to reassess the immediate safety plan and provide the affidavit and a copy of the CFS-200: Immediate Safety Plan to the Office of Chief Counsel to file any necessary petitions for dependency-neglect at thirty (30) days.

(f) If a dependency-neglect petition is filed, a corresponding family case plan, informed by the Division of Children and Family Services' approved family assessment tool, will be filed with the court within thirty (30) days per Arkansas Code § 9-27-402.

(g) The assigned FSW will continue to monitor the immediate

safety plan until it is no longer needed.

(h) The assigned FSW will complete the Division of Children and Family Services' approved family needs and strengths assessment in collaboration with the family, FSW Investigator, and other appropriate stakeholders (see 9 CAR § 40-501, family assessments, for more information).

(i) The FSW Caseworker will also have the primary responsibility of developing the family case plan with the family and ensuring the implementation of the family case plan (see 9 CAR § 40-503, services case plans, for more information);

(B) **Protective custody.**

(i) If a safety threat is identified in the home and it cannot be mitigated with the implementation of an immediate safety plan, the Division of Children and Family Services must remove the child from the home and take protective custody.

(ii) This requirement applies to any point during a child maltreatment investigation or open case when the health and physical well-being of a child are in immediate danger.

(iii) When a child is taken into protective custody, the child will be placed in an appropriate licensed or approved placement.

(iv) This may include an identified relative's or fictive kin's ("fictive kin" means a person selected by the Division of Children and Family Services who is not related to the child by blood or marriage, and has a strong, positive, and emotional tie or role in the child's life or the child's parent's life if the child is an infant) home if it is in the best interest of the child and all criteria for opening a provisional resource home and placing the specific child for whom the provisional resource home was opened have been met (see 9 CAR § 40-708, consideration of relatives and fictive kin for children in foster care, and 9 CAR § 40-801 et seq., Development of Resource Homes and Support to Resource Parents, for more information).

(v) The Division of Children and Family Services may file a motion to transfer any other prior or subsequent legal proceeding concerning the juvenile (for example, if a relative of the child taken into custody attempts to obtain guardianship or custody of the juvenile) to the court that is hearing the dependency-neglect petition if

the Division of Children and Family Services:

(a) Takes a seventy-two-hour hold;

(b) Files a petition for ex parte emergency order; or

(c) Files a petition for dependency-neglect.

(vi) If a child is taken into protective custody by a non-Division of Children and Family Services stakeholder, see 9 CAR § 40-321, protective custody of a child in immediate danger, for more information; and

(C) **Risk assessment.**

(i) The Division of Children and Family Services' approved risk assessment is designed to assess the family's likelihood of future maltreatment and indicate the necessary level of the Division of Children and Family Services' ongoing involvement to ensure the child's continued well-being.

(ii) The Division of Children and Family Services' approved risk assessment tool will be completed in the applicable information management system as soon as there is enough information to do so, but prior to the conclusion of the investigation and prior to any decision about case opening.

(i) **Legal representation for child in foster care named as an alleged offender.**

(1)(A) If the Division of Children and Family Services or the Crimes Against Children Division is investigating an allegation of child maltreatment in which a child in foster care is named as the alleged offender and the acts or omissions that gave rise to the child maltreatment report may lead to a criminal or delinquency investigation or charge, the assigned Division of Children and Family Services caseworker (or designee) for the child in foster care will contact the public defender.

(B) The assigned Division of Children and Family Services caseworker or designee will request that the public defender represent the child in foster care who is named as the alleged offender.

(2)(A) If the public defender accepts representation, the Division of Children and Family Services caseworker or designee will inform the investigator, so that the assigned investigator can request an interview.

(B) The public defender will provide or withhold consent for any investigative interview of the juvenile offender in foster care.

(3)(A) If the public defender refuses to represent the child in foster care who is named as the alleged offender in a child maltreatment report because there is no risk of criminal or delinquency charges being filed, the investigator will contact the assigned Division of Children and Family Services caseworker for the child to request an interview.

(B) The Division of Children and Family Services caseworker, in collaboration with his or her supervisor and Area Director, will determine whether it may be appropriate for a child in foster care named as the alleged offender in a child maltreatment report to be interviewed.

(C) If deemed appropriate, the local team will make the recommendation to the Director of the Division of Children and Family Services or designee.

(D) Only the Director of the Division of Children and Family Services or designee, based on the recommendation by the local team, may give consent for the child in foster care named as an alleged offender to be interviewed as part of a child maltreatment investigation.

(E) The Office of Chief Counsel may be consulted as needed regarding legal advice but cannot give consent to an interview with a child in foster care named as an alleged offender.

(j) **Rights of the investigator.**

(1)(A) The investigator has the right to obtain a criminal background check, including a fingerprint-based check in any national crime database, on any subject of the report.

(B) The results of the criminal background check will not be disclosed outside of the department except as permitted under Arkansas Code § 12-18-612.

(2)(A) In accordance with Arkansas Code § 12-18-613, on request by the investigating agency, any school, childcare center, childcare facility, residential facility, residential treatment facility, or similar institution shall provide the investigator with the name, date of birth, Social Security number, and last known address and phone number

of any alleged offender if the alleged maltreatment occurred at that school, center, or facility.

(B) Any school, childcare facility, residential facility, or similar institution shall also provide the person conducting the investigation with the name and address of any witness to the alleged child maltreatment if the alleged child maltreatment occurred at that school, center, or facility.

(3)(A) The FSW or Crimes Against Children Division Investigator conducting the child maltreatment investigation also has the right to enter into the home, school, or other place for the purpose of conducting an interview or completing the investigation.

(B) The investigator also has the right to request accompaniment by a law enforcement agent while conducting the investigation.

(C) If the investigator is denied access into the home, school, or other place for investigative purposes, then the investigator must prepare an affidavit to submit to the Office of Chief Counsel in order to request an order of investigation.

(D) If the investigator is denied access into the home, school, or other place and has reason to believe a child's health or safety are in immediate danger, the investigator will call local law enforcement immediately (if not already accompanied by LLE) in order to help gain access into the home.

(4)(A) No publicly supported school, facility, or institution may deny access to any person conducting a child maltreatment investigation.

(B) The Division of Children and Family Services, the Crimes Against Children Division, and law enforcement shall be allowed access to the child's public and private school records during the course of the child maltreatment investigation.

(C) School district staff shall not provide notification if a request is made to interview a student during the course of an investigation of suspected child maltreatment and a parent, guardian, custodian, or person standing in place of a child's parent is named as an alleged offender and the interviewer requests that the school personnel does not make said notification.

(5) Per Arkansas Code § 12-18-604, the department may petition a circuit

court to allow an investigator to access the controlled substance database if:

(A) The investigator demonstrates probable cause that the alleged offender has one (1) or more prescription drugs; and

(B) The baby or the alleged offender tested positive for prescription drugs at the time of the birth of the baby.

(6)(A) The investigator will have the discretion, in the child's best interest, to limit the persons allowed to be present when a child is being interviewed concerning an allegation of child maltreatment.

(B) The investigator will determine when a child or any other children residing in the home should be referred to a physician, psychologist, or psychiatrist for a medical or psychological examination.

(C) While the Division of Children and Family Services staff may conduct drug screens on teenagers when necessary, all children younger than thirteen (13) should be referred to a physician or medical facility for drug screening if needed.

(D) Please see 9 CAR § 40-413, client drug and alcohol screening, for more information.

(7) The Division of Children and Family Services will fully cooperate and participate in multidisciplinary child maltreatment response teams.

(8) All information except the name of the reporter may be disclosed to the teams.

(k) **Interpreter services.**

(1)(A) At any point during the course of a child maltreatment investigation, when the person being interviewed cannot clearly communicate in English, the investigator shall arrange for an interpreter before continuing the interview.

(B) The interpreter must be trained and appropriately certified to translate the specific language needed.

(2)(A) If at any point during the course of a child maltreatment investigation, the investigator cannot determine whether the person being interviewed can clearly and effectively communicate in English, the interviewer shall end the interview.

(B) The interview shall recommence:

(i) When a determination is made that the person can or cannot clearly communicate in English; and

(ii) When necessary, a translator certified to translate the specific language has been obtained to facilitate clear communication.

(C) Family members should never serve as interpreters for an investigator conducting an interview.

(3) If any delay in obtaining investigation or investigative information from having to make a determination about language and clear communication results in or creates a situation in which the alleged victim child's health or physical well-being will be put in immediate danger, the child will be placed in seventy-two-hour protective custody.

(l) **Investigation completion timeframes and extensions.**

(1) Regardless of whether the child maltreatment investigation is conducted by the Division of Children and Family Services, the Crimes Against Children Division, or local law enforcement, the supervisor approved investigative determination shall be made within forty-five (45) calendar days.

(2)(A) The Area Director or designee may request an extension of an additional fifteen (15) calendar days (for a total investigative timeframe of sixty (60) calendar days) to complete the investigation and make a determination if good cause for the requested extension is shown.

(B) Circumstances that meet the definition of good cause, as it pertains to requesting and granting a fifteen-day extension to make an investigative determination, include but are not limited to:

(i) The Prosecuting Attorney or law enforcement officials have requested that the Division of Children and Family Services postpone the determination due to a pending criminal investigation;

(ii) Medical, crime lab, or autopsy reports needed to make a determination have not been received;

(iii) The report involves some out-of-state subjects and interview write-ups have not been received;

(iv) Conflicting medical opinions have been received, requiring further analysis; or

(v) Multiple alleged offenders or victims are involved, requiring additional time to conduct interviews and gather evidence.

(3) Documentation supporting the request for the extension must be submitted with the request.

(4) All extension requests must be submitted to and approved by the applicable Area Director followed by the Assistant Director of the Division of Children and Family Services or designee as designated by the Director of the Division of Children and Family Services or designee via auto notification through the Division of Children and Family Services' information management system.

(m) **Investigation closures and determinations and resulting referrals and case openings.**

(1) Within the appropriate timeframes outlined above and utilizing PUB-357: Child Maltreatment Investigation Determination Guide as a reference where applicable, the department will either:

(A) Administratively close an investigation of a child maltreatment report pursuant to Arkansas Code § 12-18-601 without a determination of whether the allegation is unsubstantiated, true, true but exempted, or inactive (see 9 CAR § 40-324 for administrative closure criteria and related requirements); or

(B) Close the investigation with a determination that the allegations of child maltreatment are either:

(i) Unsubstantiated;

(ii) True;

(iii) True but exempted for:

(a) Neglect as defined by Arkansas Code § 12-18-103(14)(B) (i.e., Garrett's Law);

(b) Religious beliefs; or

(c) Underage juvenile offenders; or

(iv) Inactive.

(2)(A) The Division of Children and Family Services will then make a decision regarding the need for opening a corresponding case to provide services, assist the family with expanding and strengthening their network, and monitor child safety and risk on an ongoing basis.

(B)(i) The decision to open a case will be made as guided by:

(a) The results of the Division of Children and Family Services' approved safety assessment tool;

(b) The results of the Division of Children and Family Services' approved risk assessment tool;

(c) Investigation determination;

(d) Professional judgement; and

(e) Supervisory consultation.

(ii) The investigation determination will then be used to determine the type of case offered or opened, as applicable.

(3) Criteria for the administratively closed investigations and child maltreatment determinations are as follows:

(A)(i) Administratively closed.

(ii) A child maltreatment investigation will be administratively closed without further action or determination if:

(a) A preliminary investigation has been completed, to include:

(1) Interview with the alleged victim outside the presence of the alleged offender;

(2) Assessment of the alleged victim's home environment, as appropriate;

(3) Interview of a collateral witness; and

(4) Review of prior history of child maltreatment related to the family of the child and to the alleged offender;

(b) There has not been an additional report of abuse or neglect that has been committed by the alleged offender who is the subject of the current report;

(c) The health and safety of the child can be ensured without further investigation by the Division of Children and Family Services based on review of prior child maltreatment history; and

(d) There is a determination that abuse or neglect of the child did not occur and at least one (1) of the following criteria are met:

(1) There are indications of malicious reporting;

(2) Details of the allegations are insufficient to investigate;

(3) Reporter was anonymous, and no evidence exists to corroborate the report; or

(4) There is no available evidence to support or refute the allegation or allegations due to the passage of time between the alleged occurrence of the maltreatment and the time the report was made.

(iii) The director or designee approves the administrative closure of an investigation conducted by the Division of Children and Family Services;

(B)(i) Unsubstantiated determination.

(ii) A child maltreatment investigation will be determined unsubstantiated in the event that:

(a) The allegation of child maltreatment is not supported by a preponderance of the evidence following an investigation by Division of Children and Family Services staff; or

(b) The investigation concludes the injuries were the result of reasonable and moderate physical discipline inflicted by a parent or guardian for the purpose of restraining or correcting the child;

(C)(i) True determination.

(ii) A child maltreatment investigation will be determined true in the event of:

(a) An admission of the fact of maltreatment by persons responsible;

(b) An adjudication of dependency-neglect;

(c) A determination of the existence of maltreatment by Division

of Children and Family Services staff, based on a preponderance of the evidence;

(d)(1) A medical diagnosis of failure to thrive.

(2) The Family Service Worker should, however, complete the child maltreatment investigation in accordance with the procedures included to determine the identity of the caretaker and to investigate the family for the purposes of determining appropriate service delivery; or

(e) Any other medical or legal form of confirmation deemed valid by the Division of Children and Family Services.

(iii)*(a)* If a report is determined to be true, the names and conditions of any minor children of the alleged offender, and whether these children have been maltreated, or are at risk of maltreatment, will also be determined unless the investigating agency has determined that there is no indication of risk to the children.

(b) If the report is determined to be true, and is a report of sexual abuse, sexual contact, or sexual exploitation, an assessment of any other children previously or currently under care of the alleged offender, to the extent practical, and whether these children have been maltreated, or are at risk of maltreatment, will be conducted unless the investigating agency has determined that there is no indication of risk to the children.

(c) The FSW conducting the investigation shall also seek to ascertain all other relevant data.

(iv) If a report is determined to be true and involves any child under three (3) years of age, the child will be referred to the Division of Developmental Disabilities Services' Children's Services for an early intervention screening per the Child Abuse Prevention and Treatment Act of 1988 (CAPTA), Pub. L. No. 93-247, if the children were not already receiving early intervention services or were not already referred during the investigation (see 9 CAR § 40-343, early intervention referrals and services, and related procedures for more information).

(v)*(a)* If a report of sexual abuse is determined to be true and the alleged offender is under eighteen (18) years of age at the time the act or omission occurred, the parents or legal guardians of the alleged juvenile or underage juvenile

offender and victim shall be provided with a list of mental health professionals or agencies available to evaluate and treat the alleged juvenile offender or underage juvenile offender and victim, if necessary.

(b) Providing this information does not necessarily require the Division of Children and Family Services to pay for the mental health evaluation or any subsequent mental health treatment or services.

(vi)*(a)* If a child maltreatment report is determined to be true, the Division of Children and Family Services will then also determine the risk level of the offender and any vulnerable population to which the offender may pose a risk of maltreatment, including without limitation children, the elderly, persons with a disability, and persons with a mental health illness.

(b) The following factors will be considered when determining whether an offender poses a risk of maltreatment to a vulnerable population:

(1) The severity of the child maltreatment;

(2) The nature and severity of an injury or other adverse impact caused by the child maltreatment;

(3) The current or future access the offender has or could have to a vulnerable population;

(4) Offender's previous child maltreatment history and whether there are similar fact patterns related to current offense and past child maltreatment history;

(5) Subsequent reports of child maltreatment against the offender; and

(6) Criminal history of the offender.

(vii)*(a)* If the Division of Children and Family Services determines the offender poses a risk to a vulnerable population, the investigative determination will continue to be documented as true, and the offender's name will be placed in the Child Maltreatment Central Registry.

(b) If the Division of Children and Family Services determines the offender does not pose a risk to a vulnerable population, the investigation

determination will be documented in the Division of Children and Family Services' information management system as exempted-no risk.

(c) The director or designee will approve determinations for true but exempted for no risk to vulnerable populations;

(D)(i) True but exempted determination.

(ii) A determination of true but exempted, which means the offender's name will not be placed in the Child Maltreatment Central Registry, will be entered for the reasons listed below.

(iii) The following circumstances do not require a consideration of the risk level of the offender and any vulnerable population to which the offender may pose a risk of maltreatment as these conditions warrant a determination of true but exempted pursuant to Arkansas Code § 12-18-702:

(a)(1) Garrett's Law exemptions.

(2) A child maltreatment investigation that documents the presence of an illegal substance in either the bodily fluids or bodily substances in the mother or child at the time of birth resulting from the mother knowingly using any illegal substance (i.e., Garrett's Law case) will be found true but exempted and will not be placed on the Child Maltreatment Central Registry.

(3) Family First Services are available for Garrett's Law investigations and services cases with the completion of the prevention plan for the family.

(4) If the FSW determines the child's health or physical well-being is in immediate danger, he or she will take the newborn into protective custody.

(5) The FSW must also assess any siblings of the newborn or other children under the care of the alleged offender.

(6) If it is determined that there is an immediate danger to the siblings' (or any other children under the care of the alleged offender) health or physical well-being, then they must also be brought into emergency seventy-two-hour protective custody.

(7) Acceptable reporters include any one (1) of the following

mandated reporters who have reasonable cause to suspect that a newborn has been subjected to an illegal substance before birth or the mother had an illegal substance in her bodily fluids or bodily substances at the time of the birth:

(A) Licensed nurse;

(B) Osteopath;

(C) Physician;

(D) Medical resident or intern;

(E) Surgeon;

(F) Hospital social worker; or

(G) Any medical personnel who may be engaged in the admission, examination, care, or treatment of persons in hospitals or similar medical settings.

(8) During an investigation, or when the Division of Children and Family Services has custody, if the mother or newborn has tested positive for the presence of an illegal substance in the bodily fluids or bodily substances, and the mother indicates that she wants to place the newborn for adoption through a private agency or private entity, the FSW must contact the Office of Chief Counsel immediately.

(9) If the infant is placed with a private adoption agency, then do not open a case;

(b)(1) Religious belief exemptions.

(2) A child maltreatment investigation will be determined to be true but exempted due to a religious belief exemption in the event that the Family Service Worker determines that the parent's decision to withhold medical treatment was based solely upon a religious belief, choosing instead to furnish the child with prayer and spiritual treatment in accordance with a recognized religious method of healing by an accredited practitioner.

(3) An FSW will place a child whose health or physical well-being is in immediate danger in a safe environment in department custody regardless of the beliefs of the parents.

(4) The religious belief exemption does not preclude the

FSW's right and responsibility to take appropriate action, including petitions to the court, to obtain necessary medical services;

(c)(1) Underage juvenile offender exemptions.

(2) A child maltreatment investigation will have an individual finding of true but exempted for underage juvenile offenders if there is an overall true finding of sexual abuse by a child under fourteen (14) years of age to another child; and

(d)(1) Juvenile is less than fourteen (14) years of age exemptions.

(2) A child maltreatment investigation will have an individual finding of true but exempted if an offender is a juvenile less than fourteen (14) years of age; or

(E)(i) Inactive determination.

(ii) Per Arkansas Code § 12-18-619(c), if at any time before or during the investigation the department is unable to locate or identify the alleged offender or alleged victim, the department may consider the report unable to be completed and determine the report to be inactive if a true or unsubstantiated determination cannot be established without interviewing the alleged offender or alleged victim.

(iii)*(a)* Failure to complete the investigation within the required forty-five (45) days is not a reason to place a case on inactive status.

(b) The report must document why the investigation is determined to be inactive.

(c) All activities on the CFS-155: Unable to Locate Checklist must be completed by the FSW Investigator before determining an investigation to be inactive and verified by the FSW Supervisor before approving the investigation.

(iv)*(a)* For investigations determined to be inactive but information obtained from a subsequent report would permit the assigned investigative agency to gather additional evidence, the assigned investigative agency will provide notice of the allegations as per Arkansas Code § 12-18-501 et seq., and conduct the investigation.

(b) The assigned investigative agency will amend the

determination of the earlier report accordingly based on evidence collected.

(c) The allegations contained in the most recent report will be investigated separately and an associated determination made based on the evidence collected during the investigation of the more recent report.

(v) For information regarding how to proceed when the Division of Children and Family Services is assigned to a report previously found to be inactive and the Crimes Against Children Division is assigned to a new report that would permit the Division of Children and Family Services to gather additional evidence on the report previously determined to be inactive, please see the Agreement Between the Arkansas Department of Human Services (ADHS), Division of Children and Family Services (DCFS) and the Arkansas State Police (ASP), Crimes Against Children Division (CACD).

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-314. Assignment of Child Abuse Hotline investigation reports.

The FSW supervisor or designee will assign the report to a Family Service Worker or Workers or a unit group, as applicable, who will conduct the investigation when a report is received in the CHRIS county inbox.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-315. Preparation for investigation initiation.

The FSW will:

(1) Conduct a CHRIS history search prior to initiation of investigation unless the report is received after hours or during the weekend or a holiday;

(2) If the reporter is named in the report, attempt to contact the reporter to gain additional information regarding the allegation prior to initiation unless the report is received after hours (inability to reach the reporter shall not prevent the investigator from initiating the investigation); and

(3) Make immediate telephone notification to the prosecuting attorney and law enforcement on Priority I reports.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-316. Investigation initiation.

(a) The FSW will:

(1) Consider the investigation initiated:

(A) By interviewing or observing, when appropriate, the alleged victim child outside the presence of the alleged offender; or

(B)(i) Exercising and documenting due diligence when an interview or examination of the child could not be made.

(ii) Due diligence includes, but is not limited to:

(a) Making an unannounced visit to the child's home at least three (3) times at different times of the day or on different days (provided the three (3) visits are within the appropriate investigation initiation timeframes) in an attempt to

interview the child;

(b) Contacting the reporter again if the reporter is known;

(c) Visiting or contacting the child's school, childcare facility, and all other places where the child is said to be located;

(d) Sending a certified letter to the location given by the reporter, if attempts to locate the child have failed;

(e) Contacting appropriate local Division of County Operations staff and requesting research of their information systems and other files to obtain another address; and

(f) Completing other activities listed on the CFS-155: Unable to Locate Checklist as needed;

(2) Document initiation activities within two (2) business days;

(3) Submit the record to the supervisor for approval of due diligence to locate and interview the child after all these efforts have been made; and

(4) Document initiation activities within two (2) business days.

(b) The FSW supervisor will conduct a supervisory conference with investigator within seventy-two (72) hours of investigator initiating the investigation.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-317. Child maltreatment report investigation interviews.

(a) The FSW will:

(1)(A) Prepare for interviews by reviewing intake report and any prior child maltreatment reports, etc.

(B) See "Gathering Information" practice guide series for more

information;

(2)(A) Conduct a separate interview with the alleged victim outside the presence of the alleged offender and the alleged offender's attorney in reports involving both in-home and out-of-home offenders.

(B) Exceptions must be approved by a supervisor.

(C) If not age appropriate for an interview, observe alleged victim outside the presence of the alleged offender and the alleged offender's attorney;

(3)(A) Interview any siblings of the alleged victim and any other children under the care of the alleged offender (including during investigations with alleged out-of-home offenders) as the siblings and other children under the care of the alleged offender may have collateral information or have been within access of the alleged offender.

(B) Exceptions must be approved by a supervisor.

(C)(i) Interview all siblings and other children under the care of the alleged offender outside the presence of the alleged offender and the alleged offender's attorney.

(ii) If not age appropriate for an interview, observe all siblings and other children under the care of the alleged offender outside the presence of the alleged offender and the offender's attorney.

(D) Considering the best interest of the child, limit, as appropriate, other persons allowed to be present when a child is interviewed concerning allegations of child maltreatment;

(4)(A) Conduct a cursory physical examination of children in the least invasive manner possible during the interview.

(B) A cursory physical examination is the observation of a child's external, physical condition which may require that the child's clothing be removed or rearranged.

(C) If the child is under the age of five (5), conduct the exam with the assistance of the parent/caretaker;

(5) Complete CFS-327a: Physical Documentation – Body Diagram when

applicable and if a medical provider has not already completed CFS-327a or similar diagram specific to the current allegation;

(6) Photograph visible injuries and label and date photos;

(7) Interview the custodial and noncustodial parent of the alleged victim child and inform them of the Division of Children and Family Services responsibility to assess;

(8)(A) Interview alleged offender.

(B) In addition to gathering information about the alleged maltreatment, ascertain the alleged offender's:

(i) Employer, including the physical address;

(ii) Job duties at place of employment; and

(iii) Supervisor's name;

(9) Interview collateral sources, as appropriate, including teachers, neighbors, witnesses, and the person making the report;

(10) When interviewing a child at school, provide the principal or designee with a copy of CFS-213-A: School District Prohibition from Notifying Parent, Guardian, or Custodian of a Child Maltreatment Investigation;

(11) Enter interview notes within two (2) business days of completion of interviews;

(12) If it is discovered that any interviewee is an unlicensed childcare provider (i.e., caring for more than five (5) children including an individual's own preschool children), notify the Division of Child Care and Early Childhood Education;

(13)(A) Assist the investigative supervisor with the coordination of interviews when primary (i.e., where the child is currently located) and secondary counties are involved.

(B) The FSW of the primary county will:

(i) Interview all applicable subjects in his or her county within required timeframes; and

(ii) Complete the Division of Children and Family Services' approved safety assessment in the applicable information system with information obtained during primary investigator interviews and information obtained from secondary

investigator from secondary's interviews.

(C) The FSW of the secondary county will:

(i) Contact the primary county by phone no later than twenty-four (24) hours after interviews are conducted to discuss:

(a) Any identified safety threats and supporting documentation (examples include, but are not limited to, statements made by children, observations of children, or caregiver statements);

(b) Determination of any additional children, elderly persons, or individuals with a disability or mental illness who may be at risk;

(c) Provisions of the protection plan if one has been implemented;

(d) Other persons interviewed, their relationship to the family, and how information provided was obtained (such as, first-hand, hearsay, or investigator observations);

(e) Verification of identity of persons interviewed; and

(f) Projected completion date for secondary investigation if it is not completed at time of phone conference; and

(ii) Forward any hard copy information to the primary investigator within seventy-two (72) hours after receipt;

(14) Reinitiate the investigation in the second county within twenty-four to seventy-two (24 – 72) hours when an investigation is transferred from one county to another and the victim or any other children believed to reside in the home where the report originated have not been seen; and

(15) Complete and document all interviews in the Division of Children and Family Services' information management system within thirty (30) calendar days of the receipt of the child maltreatment report.

(b) If any parties required to be interviewed (parents, children, alleged victim child, or alleged perpetrator) cannot be located or are unable to communicate, the FSW will, after exercising due diligence:

(1) Document efforts to locate or communicate with required parties; and

(2) Proceed with the child maltreatment investigation.

(c) The Investigative Supervisor will:

(1)(A) Take the lead in coordinating the investigation when multiple counties are involved.

(B) If a secondary assignment is required, complete as soon as possible but no later than twenty-four (24) hours after receipt of referral the summary section in the Division of Children and Family Services information system's assignment screens describing:

(i) The reason or reasons for the request;

(ii) Any special instructions; and

(iii) Updated locations and telephone numbers of subjects to be seen.

(C) Forward the request to the appropriate investigative team.

(D) Verbally alert the receiving team supervisor of the secondary investigation request to:

(i) Verify receipt of report when a secondary team investigator will initiate the investigations;

(ii) Clarify any issues involving the secondary investigation request; and

(iii) Coordinate team responsibilities with the prosecuting attorney, law enforcement, and hospital staff, as applicable;

(2) Participate in phone conferences with primary and secondary investigators and any other staff involved in the investigation, as applicable;

(3) Conference with the FSW Investigator and any other staff involved from other counties as appropriate and document any consultations in the Division of Children and Family Services information system; and

(4) Ensure that counties otherwise communicate and complete the investigation within forty-five (45) calendar days.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-318. Discovery of new victims or allegations in an ongoing investigation.

(a) When at any point during the course of an ongoing investigation the FSW Investigator discovers new victims or new allegations of child maltreatment, the following actions will be taken.

(b) The FSW Investigator will:

(1)(A) Call the child abuse hotline to report the new allegation only under the following conditions:

(i) The existing allegation is a Priority II and the new allegation is a Priority I; or

(ii) The new allegation involves an alleged offender outside of the home.

(B) Otherwise, any other new allegation or allegations should be added to the investigator's existing report;

(2) Update the information in "Collected During Investigation" in the "Abuse/Neglect" screen in CHRIS;

(3) Update the "Abuse/Neglect" screen with the addition of the new allegations or new victims, as applicable;

(4) When there is a new victim, change the role of the child from "non-victim" to "victim" in the "Role in Referral" in each child's "General Information" screen in CHRIS; and

(5) Document the additional information and the date the update was made on the "Notes" screen in the investigation.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-319. Medical/psychological evaluation required during investigation.

(a) The FSW Investigator will:

(1) Confer with the supervisor concerning a complete examination/evaluation by a mental health professional if a child has one (1) of the following:

(A) Impairment of the intellectual, emotional, or psychological development as evidenced by observable and substantial reduction in the child's ability to function within a normal range of performance and behavior; or

(B) Suffered a substantial impairment in the ability to function as a result of a specific, nonaccidental action or interaction committed by a parent or caretaker;

(2) Refer for a medical examination or consultation with a physician in the following cases unless the Area Director allows an exception:

(A) Burns, fractures, or dislocations in children under three (3) years of age;

(B) Burns, fractures, or dislocations in children of any age if unexplained or implausibly explained;

(C) Burns, bruises, or fractures in nonambulatory children;

(D) Reasonable suspicion that vaginal or oral penetration has occurred;

(E) Cases involving sexually transmitted diseases in prepubescent children;

(F) Cases of malnutrition and failure to thrive;

(G) Cases of serious medical neglect;

(H) Cases of alleged head and abdominal injuries (regardless of presence of visible injury); and

(I) Reports in which the child has an observable injury, the caretaker admits responsibility for the injury, and there is reason to believe that there are internal injuries or other injuries which have occurred in the past;

(3) Involve the parent, legal guardian, or legal custodian of the child whenever possible if during the investigation a medical examination is needed to determine the existence of abuse or neglect;

(4) Verify that the parent, legal guardian, or legal custodian has exhausted all other resources before requesting Department of Human Services funds for payment; and

(5) Consider the following, listed in order of preference, in all cases in which a medical examination is required:

(A) Have the child examined at a child safety center when available and appropriate (i.e., consider distance of child safety center, whether nearest child safety center has medical services on site, and if the investigation is regarding a report of alleged sexual abuse or alleged severe maltreatment);

(B) Have the child examined by the child's Primary Care Physician (PCP);

(C)(i) Have the child examined by a pediatrician if the PCP is unavailable.

(ii) The investigator must advise the pediatrician whether the PCP, although not physically available, is available by telephone for consultation; or

(D) Take the child to the emergency room of the nearest hospital.

(b) The physical examination of children alleged to be sexually abused must be conducted by a physician or other medical personnel, not the investigator.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-320. Other child maltreatment investigation actions.

(a) The FSW Investigator will:

(1)(A) Use CFS-317: Off-Site Worker's Safety Log during the child maltreatment investigation for all off-site visits away from his or her primary work site.

(B) If worker will return to the primary work site more than one (1) hour after the initial "Planned Return Date/Time," he or she will contact his or her immediate supervisor or designee with a revised anticipated return date/time;

(2) Give the family and alleged offender (if alleged offender resides outside of the home) PUB-52: Child Protective Services — A Caretaker's Guide during the first contact and explain, as appropriate, to help the family/alleged offender understand its contents;

(3)(A) Conduct a home visit to assess the safety, risk, and protective factors of the environment where the child resides and determine the names and conditions of other children in the home.

(B) The home visit may or may not be conducted during the course of interviews with the alleged victim.

(C) However, anytime there is an open investigation involving a child in the hospital (e.g., Garrett's Law report, child admitted to hospital for injuries, or other health issues associated with child abuse or neglect), a home visit will be conducted prior to the child being discharged from the hospital;

(4) Contact the Department of Human Services attorney to petition the court for an ex parte order of investigation to allow access if the parents, caretakers, or others deny access to any place where the child may be;

(5)(A) Exercise due diligence in locating the noncustodial parent of the victim child.

(B) Examples of due diligence include, but are not limited to, seeking information from relatives or using information from the alleged victim child's birth certificate to identify and locate the noncustodial parent;

(6) Document all efforts at reasonable diligence, if unable to locate the noncustodial parent to ensure completion of the investigation within thirty (30) calendar

days;

(7) Make notifications of child maltreatment allegations to the appropriate parties according to 9 CAR § 40-1502;

(8) Obtain X-rays, photographs, radiology procedures, drug test results, medical records, other pertinent records (e.g., school records or videos from mandated reporters);

(9) If at any time it is determined that the alleged offender is not a caretaker of the alleged victim child, excluding investigations of sexual abuse:

(A) Refer the matter to the appropriate law enforcement agency via CFS-321: Referral for Investigation;

(B) Close the investigation;

(C) Forward a copy of the findings to the appropriate law enforcement agency for the agency's use in any criminal investigation; and

(D) Reopen and continue the investigation if the appropriate law enforcement agency subsequently determines that the alleged offender is a caretaker and notifies the Division of Children and Family Services of its determination;

(10) If the family moves to another county before the investigation is complete, notify other county supervisor and request a transfer to that county inbox;

(11) If the family moves to another state, notify that state's child protective services division and follow instructions from that state;

(12) Ensure that all the information gathered during the investigation is contained within the Division of Children and Family Services file whether or not the information supports the investigative determination;

(13) Key all screens in the "Investigation" section of CHRIS including screens listed under the "Interview" and "Client" sections within thirty (30) days of receipt of the hotline report; and

(14) Complete and print CFS-6003: Report to Prosecuting Attorney within thirty (30) days of the initial report of severe maltreatment (Priority I reports) and send to Prosecuting Attorney and law enforcement unless the Prosecuting Attorney and/or law enforcement has provided written notice to the Division of Children and Family

Services that the Division of Children and Family Services does not need to provide notice of the investigative determination.

(b) The FSW Supervisor will:

(1) If the family moves to another county before the investigation is complete, transfer investigation to the new county inbox upon receiving notification from the FSW/Crimes Against Children Division investigator of the move;

(2) Conduct a supervisory conference with the investigator fourteen (14) days following receipt of report (or the next business day) to assess progress of the investigation up to that point;

(3) In addition to a fourteen-day supervisory conference, discuss investigation with the investigator as appropriate/needed throughout the investigation;

(4) Complete CFS-299: Investigation Checklist for Supervisors throughout the course of the investigation; and

(5) Make entries on the "Inv. Notes" as the investigation is conducted (e.g., documentation of supervisory conferences with investigator).

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-321. Protective custody of a child in immediate danger.

The FSW will:

(1) Take a child into protective custody for up to seventy-two (72) hours if:

(A) The circumstances present an immediate danger to the child's health or physical well-being;

(B) The child is neglected as defined under Garrett's Law pursuant to Arkansas Code § 12-18-103(14)(B), and the FSW Investigator determines that the child

and any other children, including siblings, are at substantial risk of serious harm such that the children need to be removed from the custody or care of the parent/legal guardian (see 9 CAR § 40-102, definitions, for definition of "neglect"); or

(C) Any child who is dependent as defined at Arkansas Code § 9-27-301 et seq. (see 9 CAR § 40-102 for definition of "dependent");

(2)(A) If a police officer, law enforcement, a juvenile division of circuit court judge during proceedings concerning the child or sibling of the child, a designated employee of the Department of Human Services, any person in charge of a hospital or similar institution, or any physician treating a child has taken a child into protective custody pursuant to Arkansas Code § 12-18-1001, assume custody of the child and assess the health and safety of each child to determine whether to continue or release custody of the child.

(B) Release custody of a child who is taken into custody pursuant to Arkansas Code § 12-18-1001 if the FSW Investigator in consultation with his or her supervisor determines that custody is no longer required.

(C) Notify the circuit court if the department releases custody of a child whom the circuit court has taken into custody;

(3)(A) When a child upon whom a seventy-two-hour hold has been placed is currently located in a school, residential facility, hospital, or similar institution, the FSW will notify the institution.

(B) The FSW will be aware that the institution is obliged to do the following upon receiving notice, in accordance with Arkansas Code § 12-18-1005:

(i) Retain the child until the Division of Children and Family Services takes a hold on the child;

(ii) Not notify the parent until the child has been removed by the Division of Children and Family Services; and

(iii) Provide the parent or guardian with the name and contact information of the Division of Children and Family Services employee regarding the hold on the child;

(4) Notify the Office of Chief Counsel attorney immediately that protective

custody was exercised and request an ex parte emergency order from the court;

(5) If a minor child's safety is a concern, contact the Office of Chief Counsel immediately to request that the Division of Children and Family Services petition the court for an order of less than custody;

(6) Determine whether to recommend to the court that reunification services should or should not be provided to reunite the child with his or her family (see 9 CAR § 40-701);

(7)(A) Determine whether the grandparents have the right to notice and right to be heard.

(B) In a child custody or dependency-neglect case, grandparents have this right if all the following conditions are present ("grandparent" does not mean a parent of a putative father of a child for the purpose of this determination):

(i) The grandchild resided with the grandparent for at least six (6) consecutive months prior to the child's first birthday or lived with the grandparent for at least one (1) continuous year regardless of age;

(ii) The grandparent was the primary financial caregiver during the time the child resided with the grandparent; and

(iii) The continuous custody occurred within one (1) year of the initiation of the custody proceeding;

(8) Provide the Office of Chief Counsel attorney with the name and address of any grandparent who is entitled to notice based on the above conditions;

(9) Prepare an affidavit immediately and submit it to the Office of Chief Counsel attorney (the Crimes Against Children Division shall prepare affidavits containing facts obtained during the child maltreatment investigation);

(10)(A) Arrange for a physician to examine the child thoroughly within twenty-four (24) hours of removal for allegations of severe maltreatment under Arkansas Code § 12-18-602 or if the allegation is that a child has been subjected to neglect as defined in Arkansas Code § 12-18-103(14)(B) (Garrett's Law) and arrange for a physician to examine the child thoroughly within seventy-two (72) hours of removal for all other children who enter the custody of the department.

(B) The FSW or Health Services Worker (HSW) must sign the consent for treatment prior to the child receiving medical and dental services during protective custody.

(C) The FSW or HSW may:

(i) Go to the medical or dental office where treatment is to be provided and sign the consent for treatment forms;

(ii) Have the form faxed, sign the form, and fax it back to the service provider;

(iii) Have the form signed electronically and emailed back to the service provider;

(iv) Have the form signed with a wet signature, scanned, and emailed back to the service provider; or

(v) If the provider allows phone consent, they may provide consent via the telephone.

(D)(i) This should be completed prior to the resource parent accompanying the child for treatment.

(ii) In emergency situations, the on-call FSW will be available to sign for medical or dental treatment;

(11) Place the child in an appropriate licensed or approved placement;

(12) If a provisional placement will be pursued:

(A)(i) Notify the area Resource Worker Supervisor by email within twenty-four (24) hours of removal that children have been removed and a potential provisional placement has been identified.

(ii) In the notification email, provide the area Resource Worker Supervisor with:

(a) Names and ages of the children who have been removed;

(b) Name or names of potential provisional placement;

(c) Relationship of potential provisional placement to children;

(d) Contact information for potential provisional placement; and

(e) Any other information collected regarding potential

provisional placement (see CFS-450: Prospective Provisional Resource Parent Information and Questionnaire for more information);

(B) Interview the child or children if age appropriate to assess how the child may feel about placement with a specific relative; and

(C) See 9 CAR § 40-708, consideration of relatives for children in foster care, for further information on provisional placements;

(13) Complete and route CFS-323: Protective Custody/Parental Notification;

(14) Open an out-of-home placement case within one (1) business day;

(15)(A) Return the child to the legal custodian if the emergency necessitating protective custody passes or if the judge does not grant custody to the department.

(B) Protective custody cannot be extended;

(16) Complete the CFS-336: Expiration of Protective Custody/Parental Notification and provide to the parent; and

(17) If the parent refuses to accept custody of the child, file an emergency petition.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-322. Using interpreter services during an investigation.

(a) Both verbal language interpreter services and American Sign Language (ASL) interpreter services are available statewide and require, when possible, a twenty-four-hour notice.

(b) Language interpretation may be provided over the phone as well as in person.

(c) **Spoken interpreter services.**

(1) The FSW Investigator will:

(A) If the service is needed during regular work hours:

(i) Contact the area financial coordinator to request interpreter services if the service is needed during regular work hours;

(ii) Provide the financial coordinator with:

(a) Date, time, and location that the service is needed;

(b) The language (including ASL) for which the service is needed;

(c) Whether in person interpretation services or telephonic interpretation services are needed; and

(d) Notification if the appointment must be cancelled;

(iii) If in-person language interpretation is provided:

(a)(1) Sign the service verification form provided by the interpreter after service is rendered.

(2) The signature verifies that the service was provided; and

(b) Return the signed verification form to the interpreter; and

(iv) If interpretation services are provided over the phone, there will not be a verification form to sign; and

(B) If the service is needed after hours or on weekends:

(i) Contact the appropriate vendor directly to schedule the appointment;

(ii) Notify the provider if the appointment must be cancelled;

(iii)*(a)* Sign the service verification form provided by the interpreter after service is rendered.

(b) The signature verifies that the service was provided; and

(iv) Return the signed verification form to the interpreter.

(2) The Financial Coordinator will, during regular work hours, contact the vendor and schedule the appointment.

(d) **Written translation services.**

(1) The Division of Children and Family Services staff member needing the service will:

(A) Attain supervisor approval for the translation request;

(B) If approval is attained, send document needing translation to the division Field Operations designee and Policy Unit designee; and

(C) Advise Field Operations designee and Policy Unit designee of the translated language that is needed.

(2) The division Central Office will:

(A) Forward the document to the provider for an estimate;

(B) Approve or deny the estimate;

(C) If estimate is approved, sign the estimate document and fax back to the vendor; and

(D) Forward the translated document to the division staff member who made the request.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-323. Request for investigative timeframe extension.

(a) If the FSW Investigator is unable to make a supervisor-approved investigative determination within forty-five (45) calendar days of receipt of the child maltreatment report due to good cause, then the FSW Investigator will:

(1) Conference with his or her supervisor regarding the need for extension; and

(2) By no later than the fortieth day of the investigation, request his or her supervisor to submit the completed CFS-217: Request for Investigation Timeframe Extension via CHRIS.

(b) The FSW supervisor will:

(1) Review and discuss the request and associated investigative file with the investigator within twenty-four (24) hours of the request; and

(2) If it is determined that:

(A) An extension is warranted, immediately forward the CFS-217: Request for Investigation Timeframe Extension via CHRIS (Level 9 security required) and any supporting documentation to the Area Director or designee; or

(B) An extension is not warranted:

(i) Deny the request in CHRIS; and

(ii) Conference with investigator as to how to ensure a supervisor-approved investigation determination is made within forty-five (45) days of the receipt of the child maltreatment report from the hotline.

(c) The Area Director or designee will:

(1) Review and discuss the request and associated investigative file with the investigator within twenty-four (24) hours of the request; and

(2) If it is determined that:

(A) An extension is warranted, immediately forward the CFS-217: Request for Investigation Timeframe Extension via CHRIS and any supporting documentation to the Assistant Director of Field Operations or designee; or

(B) An extension is not warranted:

(i) Deny the request in CHRIS; and

(ii) Conference with FSW Supervisor as to how to ensure a supervisor-approved investigation determination is made within forty-five (45) days of the receipt of the child maltreatment report from the hotline.

(d) The Assistant Director of Field Operations or designee will review and respond to any extension request within twenty-four (24) hours of receipt of request via CHRIS.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-324. Child maltreatment investigation closures and determinations.

(a) Within forty-five (45) calendar days of receipt of a report from the Child Abuse Hotline (or within sixty (60) calendar days for those investigations for which an extension was granted as outlined above) a child maltreatment investigation will be either administratively closed pursuant to Arkansas Code § 12-18-601 without a determination, or closed with a determination of either:

(1) Unsubstantiated;

(2) True;

(3) True but exempted for:

(A) Neglect as defined by Arkansas Code § 12-18-103(14)(B) (i.e., Garrett's Law);

(B) Religious beliefs;

(C) Underaged juvenile offenders; or

(D) Juvenile offenders less than fourteen (14) years of age; or

(4) Inactive.

(b) **Administrative closures.**

(1) In order to conduct an administrative closure, the FSW will:

(A) Initiate the investigation by interviewing the alleged victim outside the presence of the alleged offender;

(B) Complete an assessment of the alleged victim's home environment, as appropriate;

(C) Interview a collateral witness;

(D) Review prior history of child maltreatment related to the family of the child and to the alleged offender; and

(E) After the preliminary investigation steps above have occurred, submit a request for administrative closure if:

(i) There has not been an additional report of abuse or neglect that has been committed by the alleged offender who is the subject of the current report;

(ii) FSW has determined based on review of prior child maltreatment history that the health and safety of the child can be ensured without further investigation by the Division of Children and Family Services; and

(iii) FSW determines that:

(a) Abuse or neglect of the child did not occur; and

(b) At least one (1) of the following criteria are met:

(1) There are indications of malicious reporting;

(2) Details of the allegations are insufficient to investigate;

(3) Reporter was anonymous, and no evidence exists to corroborate the report; or

(4) There is no available evidence to support or refute the allegation or allegations due to the passage of time between the alleged occurrence of the maltreatment and the time the report was made.

(2) The FSW Supervisor will:

(A) Review the request for administrative closure to ensure:

(i) The victim child was interviewed outside the presence of the alleged offender;

(ii) The home environment of the victim child was assessed as appropriate given the maltreatment allegation; and

(iii) Collateral witness interview or interviews occurred; and

(B) Determine if the request meets criteria for administrative closure and within two (2) business days of receipt:

(i) Submit for three-tier closure approval if criteria are met; or

(ii) If criteria for administrative closure are not met:

(a) Deny request for administrative closure; and

(b) Complete a case consultation with FSW to discuss the reasons for denial of administrative closure request and develop a plan for completion of the investigation.

(3) The Director of the Division of Children and Family Services or designee will:

(A) Determine if the request meets criteria for administrative closure within two (2) business days of receipt; and

(B) Approve administrative closure request if criteria have been met or deny request for administrative closure adding details of denial in the comments section.

(c) **Exempted no-risk selections.**

(1) When considering whether the offender named in an investigation with the determination of true may pose a risk to vulnerable populations, the FSW will:

(A) Consider the following factors:

(i) The severity of the child maltreatment;

(ii) The nature and severity of an injury or other adverse impact caused by the child maltreatment;

(iii) The current or future access the offender has or could have to a vulnerable population;

(iv) Offender's previous child maltreatment history and whether there are similar fact patterns related to current offense and past child maltreatment history;

(v) Subsequent reports of child maltreatment against the offender;

(vi) Criminal history of the offender; and

(vii) Risk assessment tool rating;

(B) Participate in a case consultation with direct supervisor to determine if the offender may pose a risk of maltreatment to a vulnerable population;

(C) Enter explanation of risk to a vulnerable population decision in the CHRIS findings recommendation screen; and

(D) If there is a decision that the offender does not pose a risk to a vulnerable population, select "Exempt-No Risk" from the findings dropdown menu and submit for three-tier approval.

(2)(A) When considering whether the offender may pose a risk to vulnerable populations, the FSW Supervisor will review "Exempt-No Risk" selections because the

recommendation from the FSW Investigator is that the offender does not pose a risk to a vulnerable population.

(B) This will include a review of the narrative in CHRIS findings recommendation screen and associated information in the investigation to ensure appropriate selection has been recommended and if:

(i) Approving based on review, submit "Exempt-No Risk" for third-tier approval; or

(ii) Denying based on review:

(a) Deny request and enter comments regarding the denial in the denial comments; and

(b) Complete a consultation with FSW regarding denial.

(3) When considering whether the offender may pose a risk to vulnerable populations, the director or designee will:

(A) Determine if "Exempt-No Risk" is appropriate based on review of the narrative in the CHRIS findings recommendation screen and associated information in the investigation; and

(B) Approve request if appropriate or deny request adding details of denial in the comments section.

(d) **Other determinations.**

(1) For all other determinations, the FSW Investigator will:

(A)(i)*(a)* Document the investigative determination on the "Investigation Finding" screen.

(b) CHRIS will automatically populate the overall finding (unsubstantiated, true, true but exempted, or inactive) based on the individual findings.

(ii) For true but exempted determinations involving underaged juvenile offenders with sexual abuse allegations:

(a) Select the "Alleged Juvenile Offender–Under Age Fourteen" in the role and referral select box on the abuse/neglect screen in referral or investigation in CHRIS;

(b) Select "Exempted from Finding (Underaged Juvenile

Offender)" as the individual finding in the investigation findings screen in CHRIS; and

(c)(1) When "Exempted from Finding (Underaged Juvenile Offender)" appears in the individual finding, the overall finding for the investigation will be exempted (underage juvenile offender at time of incident) provided that there are no other allegations associated with the report.

(2) If true is selected for another allegation in the investigation, the overall finding will be changed to true.

(3) If the individual findings for any other allegations in the investigation are unsubstantiated and the individual finding is "Exempted (Underage Juvenile Offender at Time of Incident)" for the sexual abuse allegation with the underage juvenile offender, the overall finding will be "Exempted (Underage Juvenile Offender at Time of Incident)";

(B)(i) Document any additional information deemed necessary pertaining to the investigation/determination on the "Investigation Closure" screen and request supervisory approval of the determination.

(ii) The request for approval will automatically go to the worker's supervisor's box for approval; and

(C)(i) Ensure child maltreatment investigative determination notices, whether true or unsubstantiated, are issued to all persons pursuant to Arkansas Code § 12-18-703 et seq.

(ii) See 9 CAR § 40-1501, notices regarding child maltreatment, and related procedures.

(2) The FSW Supervisor will:

(i) Conference with the FSW Investigator as needed regarding the determination;

(ii) Review the investigative determination and other pertinent screens in CHRIS;

(iii) Approve the investigation closure as appropriate on the "Investigation Closure" screen; and

(iv) For substantiated investigation, complete/approve the "Investigation

Case Connect" screen as appropriate and assign and open a case if appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2020"

9 CAR § 40-325. Referrals and case openings based on investigative findings.

(a) The FSW will:

(1) For reports of sexual abuse determined to be true and involving an alleged offender under eighteen (18) years of age at the time the act or omission occurred, refer the alleged offender and victim for mental health services by:

(A) Providing the parents or legal guardians of the alleged offender and victim with a list of mental health professionals or agencies available to evaluate and treat the alleged offender and victim, if necessary; and

(B) Assisting the parents or legal guardians of the alleged offender and victim with a referral for a mental health evaluation, if necessary; and

(2) If a protective services or foster care case will not be opened on a true report involving any children in the home under the age of three (3), make a referral to the Division of Developmental Disabilities Services' Children's Services for an early intervention screening (see 9 CAR § 40-343, early intervention referrals and services, and related procedures for more information) if the child is not already participating in early intervention services.

(b) The FSW Supervisor will:

(1) Assist FSW Investigator, as needed, with any referrals; and

(2) Approve the "Investigation Case Connect" screen as appropriate and assign and open a case if appropriate.

(c) However, when the Crimes Against Children Division is assigned as the primary investigator and the determination is unsubstantiated, the Crimes Against Children Division will complete and approve the "Investigation Case Connect" screen.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-326. Division of Children and Family Services and law enforcement interfaces and responses.

(a) When a parent or custodian is arrested and can no longer care for his or her child, law enforcement often contacts the Division of Children and Family Services.

(b)(1) The division response depends upon whether the arrest of the parent or custodian is related to a child maltreatment or nonchild maltreatment offense, if, based on the safety assessment, the parent or custodian presents an immediate danger to the health or physical well-being of the child, and other factors assessed by the division.

(2) Staff will consult with their supervisor or designee and the Office of Chief Counsel, if necessary, regarding the appropriate response and subsequent actions.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-327. Policy — Medical neglect of an infant with disabilities.

The Division of Children and Family Services shall maintain sufficient contact with healthcare facilities to facilitate communication between those facilities and the division in order to enable the healthcare facilities to report suspected medical neglect of an infant with disabilities.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2011"

9 CAR § 40-328. Procedure — Medical neglect of an infant with disabilities.

The Family Service Worker will:

(1) Make telephone inquiry to the healthcare facility immediately upon receipt of an allegation of suspected medical neglect of an infant with disabilities to determine if:

(A) The infant has a life-threatening condition;

(B) The parents have refused to consent to treatment;

(C) The treating physician recommended treatment; and

(D) The facility's infant care review committee has analyzed the child's health and family circumstances;

(2) Contact the Child Protective Services Field Assistance Unit immediately to arrange an assessment by the contracted physician; and

(3) Contact Office of Chief Counsel if a parent will not sign a release to allow the division to examine medical records or obtain an independent medical examination of the infant.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-329. Substance-exposed infant referral and assessments.

(a)(1) The Division of Children and Family Services believes in coordinating with other state agencies and community partners to help strengthen and support families in an effort to prevent child abuse and neglect.

(2) The goal of prevention of child abuse and neglect extends to all families.

(3) However, as guided by the Comprehensive Addiction and Recovery Act of 2016 (CARA), Pub. L. No. 114-198, along with the Child Abuse Prevention and Treatment Act of 1988 (CAPTA), Pub. L. No. 93-247, as amended, the division is specifically tasked with collaborating across systems to address the needs of substance-exposed infants to prevent future child maltreatment of this vulnerable population.

(b) The division, in coordination with other state agencies and community partners, strives to address the needs of substance-exposed infants primarily through two (2) approaches:

(1)(A) Addressing the needs of substance-exposed infants who are defined as neglected pursuant to Arkansas Code § 12-18-103(14)(B)(i)(a)and (b) (i.e., Garrett's Law referrals) and the needs of their families via an investigative response.

(B) For more information regarding this approach, please see 9 CAR § 40-313, investigation of child maltreatment reports; and

(2)(A) Implementing a referral process for healthcare providers involved in the delivery and care of infants to report, for the purpose of an assessment not related to a child maltreatment investigation, infants who have not been neglected as defined in Arkansas Code § 12-18-103(14)(B)(i), but who are born with and affected by:

(i) A fetal alcohol spectrum disorder (FASD);

(ii) Maternal substance abuse resulting in prenatal drug exposure to an illegal or legal substance; or

(iii) Withdrawal symptoms resulting from prenatal drug exposure to an illegal or a legal substance.

(B) "Affected by" means:

(i) An infant exhibits a condition or conditions associated with the

mother's use of alcohol during pregnancy or a healthcare provider has an articulated concern that the infant suffers from a fetal alcohol spectrum disorder;

(ii) An adverse effect or effects in physical appearance or functioning that are:

(a) Either diagnosed or otherwise observed; and

(b) A result of the mother's use of a legal or illegal substance during pregnancy; or

(iii) An infant exhibits withdrawal symptoms in physical appearance or functioning as a result of the mother's use of a legal or illegal substance during pregnancy.

(C) "Infant" means any child thirty (30) days old or less.

(c) The remainder of this policy and related procedures are specific to subdivision (b)(2) of this section, herein after referred to collectively as prenatal substance exposure referrals and assessments.

(d)(1) Healthcare providers involved in delivery or care of infants are required to make prenatal substance exposure referrals to the Child Abuse Hotline.

(2) The Child Abuse Hotline will accept prenatal substance exposure referrals.

(3) Upon receipt of a prenatal substance exposure referral from a healthcare provider, the Child Abuse Hotline will assign the referral to the division for a referral and assessment (R and A).

(4) The request for division assessment screen accommodates instances where an individual is not reporting maltreatment but is requesting an assessment and appropriate services for the family based on an assessment of the family's strengths and needs.

(e)(1) Prenatal substance exposure referrals will be assigned to the appropriate county-level differential response (DR) staff (though prenatal substance exposure referrals are separate and apart from differential response allegations).

(2) For a prenatal substance exposure referral to be considered initiated, DR staff must make face-to-face contact with the infant or at least one (1) parent of the infant within seventy-two (72) hours of receipt of the referral from the hotline.

(3) If the infant and parent/caregiver are not seen together at the initiation, then DR staff must make face-to-face contact with the individual not seen at initiation within five (5) calendar days of receipt of the referral as well any other adult household members within the same five-calendar-day timeframe.

(4) During each contact with the parent or parents/caregiver or caregivers, DR staff are responsible for engaging the family in an assessment of strengths and needs and developing a plan of safe care for the family.

(5) The plan of safe care will be designed to ensure the safety and well-being of an infant following the release of the infant from the care of a healthcare provider and include content that addresses the health and substance use disorder treatment needs of the infant and affected family or caregiver.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-330. Prenatal substance exposure referrals.

The Child Abuse Hotline worker will:

(1) Receive and document prenatal substance exposure referrals from healthcare providers involved in the delivery and care of infants with sufficiently identifying information as defined by Arkansas law;

(2) Conduct a history check on all reports unless calls waiting to be answered by the hotline have been waiting for fifteen (15) minutes or longer;

(3) If the report qualifies as a prenatal substance exposure referral, select "Refer to DCFS for Assessment" from the request for Division of Children and Family Services assessment screen; and

(4) Inform the caller if the report does not constitute a prenatal substance

exposure referral.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-331. Receipt and assignment of prenatal substance exposure referrals.

The Differential Response Supervisor or designee will:

(1) Check CHRIS inbox at least one (1) time in the morning and one (1) time in the afternoon each business day; and

(2) Assign each new referral to a DRT Specialist within four (4) hours of receipt excluding evenings, weekends, and holidays.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-332. Prenatal substance exposure assessment and plan of safe care.

(a) The Differential Response Supervisor or designee will:

(1) Conference with the DRT Specialist within one (1) business day after the DRT specialist's initial face-to-face contact with the infant and at least one (1) parent/caregiver and discuss development of CFS-101: Plan of Safe Care;

(2) Document all supervisor activities in CHRIS within one (1) business day of completion of each activity;

(3) Regarding families with whom the DRT Specialist cannot make face-to-face contact, assess information and determine whether DRT Specialist has met due diligence no later than the seventh day after assignment; and

(4) Provide consultation to the DRT Specialist as appropriate.

(b) The Differential Response Team (DRT) Specialist will:

(1) Prepare for meeting the family by completing the following activities prior to making initial face-to-face contact with the family:

(A) Interview other persons, including the individual or individuals who called the report into the hotline, with information listed on the referral;

(B) Conduct a Division of County Operations records check of members of the household;

(C) Conduct a CHRIS history search prior to contacting the family unless the report is received after hours or during the weekend or a holiday; and

(D) Contact the family by phone within twenty-four (24) hours of assignment, if a phone number is provided in the report or if appropriate considering initiation timeframe requirements to:

(i) Explain prenatal substance exposure assessments and plan of safe care; and

(ii) Schedule the initial family visit that will include at least the infant or one (1) parent/caretaker;

(2) Consider the prenatal substance exposure referral initiated when:

(A) The health and safety of the infant has been assessed within seventy-two (72) hours from the time the referral was received from the Child Abuse Hotline, or the DRT Specialist has met with at least one (1) parent/caregiver within seventy-two (72) hours from the time the referral was received at the Child Abuse Hotline (based on the reported needs or safety issues of the family, DRT Supervisor may require that the initial contact with the family occur sooner than seventy-two (72) hours); or

(B)(i) Neither a health and safety assessment of the infant nor face-to-

face contact with at least one (1) parent/caregiver could be made but due diligence has been exercised and documented within seventy-two (72) hours of receipt of the hotline referral.

(ii) Due diligence must include:

(a) Making an announced (or unannounced, if needed) visit to the family at least three (3) times at different times of the day or on different days (provided the three (3) visits are within the appropriate initiation timeframes) in an attempt to assess the health and safety of the infant and develop a plan of safe care with the parent/caregiver;

(b)(1) If a contact is not made via the efforts described in subdivision (b)(2)(B)(ii)*(a)* of this section, completing as many of the following activities necessary to establish face-to-face contact with the infant or at least one (1) parent/caretaker.

(2) **Note.** Efforts below may be done concurrently with activities described in subdivision (b)(2)(B)(ii)*(a)* of this section:

(A) Contacting the reporter again if the reporter is known;

(B) Contacting appropriate local Division of County Operations staff and requesting research of their record systems and other files to obtain another address;

(C) Contacting the local post office and utility companies to request a check of their records; and

(D) Conducting Lexis Nexis search to attempt to locate the family;

(c) If after completion of all the due diligence activities listed above, no contact is made with the infant or a parent/caregiver by the sixth business day after assignment, document information on a case contact (DRT Supervisor will assess the information and determine whether due diligence has been met no later than the seventh day after case assignment); and

(d) If DRT Supervisor deems that due diligence has been met,

close referral;

(3) Explain to the parent/caregiver prenatal substance exposure referrals including the development of the CFS-101: Plan of Safe Care, and that the Division of Children and Family Services must address any safety factors or needs as appropriate, to include report to the Child Abuse Hotline if child maltreatment is identified or there is reasonable cause to suspect maltreatment;

(4) If the infant and parent/caregiver are not seen together at the initiation, then make face-to-face contact with the individual not seen at initiation within five (5) calendar days of receipt of the referral as well any other adult household members within the same five-calendar-day timeframe;

(5)(A) Develop CFS-101: Plan of Safe Care with the family within fourteen (14) calendar days of receipt of the referral and ask the family if they are interested in continuing services with the Division of Children and Family Services through a supportive services case.

(B) If the family accepts continued services through a supportive services case, see 9 CAR § 40-301, prevention services, and related procedures using the CFS-101: Plan of Safe Care to inform the development of the case plan of the supportive services case that will be opened.

(C) If the family declines continued services through a supportive services case:

(i) Make any referrals noted on the CFS-101: Plan of Safe Care; and

(ii) Within the close button on the request for the Division of Children and Family Services assessment screen, document completion of the assessment and the plan of safe care;

(6) Request a supervisor conference to review/discuss case information (i.e., allegation, risk/safety concerns, immediate needs, and other case-specific information); and

(7) Document all activities in CHRIS within one (1) business day after they are completed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-333. Team decision making.

(a) The policy and related procedures in this section only apply to those counties in which team decision making has been implemented.

(b) **Overview.**

(1) Team decision making (TDM) provides a facilitated forum for families, community members, and the Division of Children and Family Services to collaboratively problem solve and make decisions regarding children's safety and placement using the most information possible.

(2) TDM has proven to be an effective intervention in ensuring that all placement decisions are a shared responsibility and in the best interest of children.

(3) TDM also assists in establishing a network of support for children and the adults who care for them.

(4) As such, the consistent and effective use of team decision making promotes family engagement and helps to maintain safe family relationships that are crucial to minimizing trauma to children.

(c) **Team decision making initiation and referral.**

(1) A team decision making (TDM) meeting is held within three (3) business days of the establishment of a protection plan due to a safety factor (see Appendix G: Arkansas Health and Safety Factors) being identified in the home and always before the case is brought to court.

(2) However, a dependency-neglect petition related to a protection plan may be filed with the court when necessary.

(3) The protection plan will be filed with the court within thirty (30) days of an

initial protection plan being put in place if:

(A) A dependency-neglect petition was not previously filed in association with the protection plan; and

(B) It is assessed that:

(i) A substantial risk of harm to the health and safety of the child remains; and

(ii) That the protection plan must stay in place to ensure the health and safety of the child.

(4) TDM meetings referrals are made by the Division of Children and Family Services FSW who put the protection plan in place to the area Division of Children and Family Services Facilitator.

(5) If the area Division of Children and Family Services Facilitator is unavailable, the Division of Children and Family Services FSW who put the protection plan in place will contact the Division of Children and Family Services Facilitator Supervisor.

(6) The Division of Children and Family Services Facilitator Supervisor will then make a referral to a back-up facilitator who can facilitate the TDM meeting within three (3) business days of the establishment of a protection plan.

(7) A TDM meeting is also held within three (3) business days of receipt of any Garrett's Law allegation – regardless of whether the child is left in the home or removed – to the hotline and always before the case is brought to court.

(8)(A) However, if a protection plan is put into place at the initiation of an investigation involving a Garrett's Law report, a dependency-neglect petition may be filed with the court in association with that protection plan as necessary.

(B) The protection plan will be filed with the court within thirty (30) days of an initial protection plan if:

(i) A dependency-neglect petition was not previously filed in association with the protection plan; and

(ii) It is assessed that:

(a) A substantial risk of harm to the health and safety of the child

remains; and

(b) The protection plan must stay in place to ensure the health and safety of the child.

(9)(A) TDM meeting referrals related to Garrett's Law allegations are made by the primary Division of Children and Family Services FSW Investigator to the area the Division of Children and Family Services Facilitator.

(B) If the area Division of Children and Family Services Facilitator is unavailable, the primary Division of Children and Family Services FSW Investigator will contact the Division of Children and Family Services Facilitator Supervisor.

(C) The Division of Children and Family Services Facilitator Supervisor will then make a referral to a back-up facilitator who can facilitate the TDM meeting within three (3) business days of an accepted report of a Garrett's Law allegation to the hotline.

(10) The TDM Supervisor may waive the TDM meeting requirement for extenuating circumstances that render a TDM meeting unnecessary (e.g., a foster care case is already opened, a hotline referral involving a child death with no siblings or other children under the care of the alleged offender, a Garrett's Law referral in which the biological mother is already working with the Office of Chief Counsel to put the infant up for adoption, etc.).

(d) **Team decision making preparation.**

(1)(A) All team decision making meetings will be held outside of the Department of Human Services county office in an effort to conduct the meetings in a more family-friendly environment.

(B) Only the TDM Supervisor may approve for a TDM meeting to be held in the Department of Human Services county office for special circumstances such as safety concerns, inclement weather, etc.

(2)(A) Prior to the team decision making meeting, the FSW and the FSW Supervisor who approved the initial protection plan or the primary FSW Investigator involving a Garrett's Law allegation and that FSW's Supervisor will conference with the Facilitator who will moderate the TDM meeting in order to prepare for the TDM.

(B) This conference will allow these Division of Children and Family Services staff members to review the TDM process as necessary and review information gathered at that point in time regarding the family with particular attention to the identified safety factors and/or other information gathered during the investigation involving a Garrett's Law allegation.

(C) During this meeting, the Division of Children and Family Services staff will assess whether the children involved in the protection plan and/or the children involved in an investigation involving a Garrett's Law allegation should be present at the TDM meeting based on the children's preferences and the children's ability to handle the emotional impact of the meeting.

(3)(A) A safety check-in meeting will also occur per TDM protocols with the biological parent or parents and children who plan to participate in TDM prior to the TDM meeting.

(B) The safety check-in is conducted to learn about any safety concerns the parents and/or children may have regarding the meeting proceedings and/or other participants.

(C) If safety concerns exist, the Division of Children and Family Services will ensure the appropriate precautions are put in place.

(e) **Team decision making participants.**

(1)(A) Concerted efforts shall be made by the Division of Children and Family Services to engage the biological parents (or other person responsible for care, as applicable) and support their attendance at the team decision making meeting.

(B) Children are also encouraged to participate in the meeting when deemed appropriate according to their:

(i) Age;

(ii) Developmental status;

(iii) Emotional condition; and

(iv) Trauma-related needs and responses.

(C) The FSW who put the protection plan into place and/or the primary FSW Investigator involving a Garrett's Law allegation and the Facilitator must

participate in the TDM meeting.

(2)(A) The FSW Supervisor who approved the protection plan or the supervisor of the primary FSW Investigator involving a Garrett's Law allegation is also required to participate in the TDM meeting.

(B) If necessary, the FSW Supervisor may participate by phone with prior approval from the Area Director.

(C) If an emergency arises and the FSW Supervisor is unable to participate even by phone, then the Area Director is responsible for ensuring another supervisor, preferably the county supervisor, participate in the TDM meeting in order to better support the FSW.

(D) For TDMs involving protection plans, the FSW's direct supervisor (if different from the FSW Supervisor who approved the protection plan) is encouraged, but not required, to attend the TDM meeting.

(E) Any other supervisor is welcome to attend the TDM meeting if desired.

(3)(A) The biological parents (or other person responsible for care, as applicable) and children are recognized as the experts regarding their family's needs and strengths.

(B) The FSW serves as the representative to speak to the protection plan and/or his or her initial assessment of family functioning for those families involved in an investigation with a Garrett's Law allegation.

(C) The Facilitator is a trained process expert with extensive knowledge of agency:

(i) History;

(ii) Policies;

(iii) Procedures; and

(iv) Best practices.

(D) He or she works with everyone present at the TDM meeting to lead that group through solution-focused discussion that provides all participants with opportunities to voice their thoughts, concerns, and suggestions.

(4) With a parent's (or other person responsible for care, as applicable)

consent, additional efforts to include relatives, natural support persons, and current service providers will be made.

(5)(A) The Division of Children and Family Services will be mindful about the balance of staff or professionals to family members and their natural supports.

(B) The more family-supportive individuals involved in the decision-making process, the more likely the resulting plan will be customized to meet the unique needs of the family.

(C) TDM participants may include, but are not limited to:

(i) Extended family and/or fictive kin invited by parents to support, assist, and/or serve as a resource;

(ii) Current caregivers (if not the biological parents) so they may assist in providing information regarding children's needs and in developing ideas and reaching decisions;

(iii) Community partners who are defined as such by the family or the Division of Children and Family Services, whether based on neighborhood, faith/religion, or other connection, to provide:

(a) Support;

(b) Resource expertise; and

(c) External perspective in decision-making;

(iv) Service providers who are currently involved with family and can provide insight regarding family functioning and assist in problem solving; and

(v) Other public agency staff such as representatives from the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services, the Division of Developmental Disabilities Services, the Division of Youth Services, the Department of Education, the Division of Workforce Services, the Public Housing Authority, etc., to provide expertise and information.

(f) **Team decision making meeting goals and processes.**

(1) During the team decision making meeting the group:

(A) Engages the family to discuss family's needs and strengths;

(B) Reviews the family's protection plan, as applicable;

(C) Assesses the effectiveness of the protection plan thus far, as applicable;

(D) Assesses any risk factors;

(E) Determines if any changes to the protection plan are needed, as applicable;

(F) Decides if other appropriate services and supports are available to strengthen the family; and

(G) Reaches consensus regarding the child's placement that protects the child and preserves the family.

(2)(A) For TDM meetings involving protection plans, the original protection plan that the FSW put into place via the CFS-200: Protection Plan will be documented on the safety planning screen of the health and safety assessment.

(B) If the protection plan is updated or otherwise enhanced during the course of the TDM meeting, any pieces of the initial protection plan (documented on CFS-200: Protection Plan) that will remain in the updated version must also be documented on CFS-355: Team Decision Making Meeting Summary Report.

(C) In addition, any new information or requirements to which the team agrees during the TDM meeting will also be included on the CFS-355: Team Decision Making Meeting Summary Report.

(D) The information and requirements outlined in the TDM action plan that all participants agree to by signing the CFS-355 replaces the original protection plan for the family.

(3)(A) For TDM meetings involving allegations of Garrett's Law for which no protection plan was put into place during the investigation, the CFS-355: Team Decision Making Meeting Summary Report signed by all participants will serve as the TDM action plan for that family.

(B) As per the CFS-355, each person's signature on that form means that he or she understands and agrees to the actions steps outlined on the CFS-355.

(4)(A) Privacy and respect are valued and practiced during TDM meetings.

(B) However, information from the meeting may be used, as applicable,

for future case planning, in subsequent court proceedings, and/or in the investigation of any new allegations of abuse or neglect.

(5)(A) The Division of Children and Family Services maintains the legal responsibility to make decisions regarding children's placement and safety at all times.

(B) If the entire group involved in the TDM meeting cannot reach consensus, the facilitator must at least ensure the Division of Children and Family Services staff involved in the TDM meeting reach consensus.

(g) **Team decision making review process.**

(1) A review process is available if Division of Children and Family Services staff members believe the decision puts the child at serious risk of harm or violates law or policy.

(2) A Division of Children and Family Services staff member who requests a review process must notify the group of his or her intent to seek review before the team decision making meeting adjourns.

(3) The TDM review will be conducted immediately by either a Division of Children and Family Services County Supervisor or the Area Director, as appropriate, prior to participants leaving.

(4) The TDM review may be conducted in-person or by phone conference.

(5)(A) The final decision is made by the TDM Reviewer after hearing summaries of the meeting and reason for review.

(B) Division of Children and Family Services personnel are responsible to implement the final decision and demonstrate full support.

(h) **Team decision making follow-up.**

(1)(A) Following all team decision making meetings, the FSW, FSW Supervisor who approved the protection plan or supervisor of the primary FSW Investigator involving a Garrett's Law allegation, and Facilitator will meet or conference call within twenty-four (24) hours to debrief the TDM meeting.

(B) The debriefing meeting serves as a learning tool for Division of Children and Family Services staff by allowing them to give each other feedback regarding their interactions in the meeting specific to processes and roles.

(C) The debriefing meeting is not a time to revisit the content of the discussion or reconsider the decision made during the TDM meeting.

(2)(A) The Division of Children and Family Services Facilitator will enter all required TDM data elements into CHRIS within three (3) business days of the TDM meeting.

(B) If a back-up Facilitator participated in the meeting, that back-up Facilitator must provide all data elements to the Division of Children and Family Services Facilitator within three (3) business days.

(C) The Division of Children and Family Services Facilitator will enter the TDM data elements into CHRIS within three (3) business days of receipt of the data elements from the back-up Facilitator.

(3) The FSW who put the protection plan into place will continue to be responsible for monitoring the protection plan and any other elements necessary, as determined during the TDM meeting, throughout the completion of the investigation.

(4) For Garrett's Law referrals involving two (2) counties (e.g., parents reside in one (1) county but give birth to the infant in a neighboring county), the secondary FSW Investigator who initiates the investigation will also interview any other collaterals available at the time of initiation in the county where the infant was born (if applicable) based on when infant was discharged from the hospital and when the hotline report is accepted.

(5)(A) The primary FSW Investigator in the county where the family resides will conduct a home visit before the TDM meeting takes place, if possible.

(B) However, the primary FSW Investigator must conduct a home visit prior to the infant's discharge from hospital (if applicable depending on when hotline report was made).

(C) If the home visit is conducted before the TDM meeting occurs and prior to the infant's discharge from the hospital, then that home visit will meet the requirement for both.

(D) The primary FSW Investigator will also interview all other necessary collaterals who were not interviewed during the investigation initiation.

(6)(A) The primary and secondary investigators must share all information regarding the investigation prior to the TDM meeting.

(B) The secondary investigator is not required to attend the TDM meeting but is encouraged to do so.

(C) The primary investigator must attend the TDM meeting.

(7)(A) If a protective services or foster care case is subsequently opened, the FSW who initially put the protection plan into place and participated in the TDM meeting will communicate all information regarding the plan and TDM meeting to the appropriate FSW Caseworker.

(B) The newly assigned FSW Caseworker will then have the primary responsibility of monitoring the protection plan, any other associated elements, and case plan (i.e., the case plan is separate from the protection plan).

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"1/2020"

9 CAR § 40-334. Team decision making initiation and referral.

(a) After establishing a protection plan and/or initiating an investigation involving a Garrett's Law allegation (regardless of whether the child is left in the home or removed), the FSW will:

(1) Inform parents (or person responsible for care, as applicable) and youth (as appropriate) of:

(A) The purpose of a team decision making (TDM) meeting;

(B) That they will be required to attend the next scheduled TDM meeting; and

(C) What will be expected of them during the TDM meeting (e.g., to share

their understanding of the safety and risk issues as well as strengths in their home, their understanding of the protection plan as applicable, etc.);

(2) Tell the parents (or person responsible for care, as applicable) that, if they would like, the assigned facilitator can also contact the family by the next business day to explain more about the process;

(3)(A) Ask:

(i) Parents (or person responsible for care, as applicable) and youth (as appropriate) to identify extended family members, fictive kin, or community partners who they would like to attend the upcoming TDM; and

(ii) The family to contact those individuals with information about the upcoming TDM meeting.

(B) Collect names, phone numbers, and addresses of family-identified team members;

(4) Leave PUB-35: "What is Team Decision Making?" with the family;

(5) Discuss whether family will need assistance with transportation and help coordinate transportation as appropriate;

(6)(A) Contact the area Division of Children and Family Services facilitator by phone or email within two (2) hours of putting the protection plan in place and/or within two (2) hours of initiating an investigation involving a Garrett's Law allegation to refer the family for a team decision making meeting.

(B) When the FSW emails or leaves a voicemail referral with the area TDM Facilitator during normal business hours and has not heard back from the facilitator by 4:00 p.m. that same business day, then the FSW will contact the division Facilitator Supervisor by phone or email with the referral information.

(C)(i) If TDM referral is made after hours, on the weekend, or during a holiday, an email must be sent or a voicemail must be left to make the referral.

(ii) When the FSW emails or leaves a voicemail with the area TDM Facilitator after hours and has not heard back from that facilitator by 9:00 a.m. the next business day, then the FSW will contact the division Facilitator Supervisor by phone or email with the referral information.

(D) Provide the division Facilitator (or the division Facilitator Supervisor, as applicable) with:

(i) Names of family members;

(ii) Family address and phone number;

(iii) Dates of birth of family members;

(iv) Protection plan, if applicable;

(v) Any special information or needs regarding safety (e.g., domestic violence issues), language interpretation, physical accommodations, child care for very young children, etc.; and

(vi) Contact information and family request to be contacted by the facilitator to provide more information about the TDM process, if applicable;

(7) Work with the assigned facilitator and family to confirm exact date, time, and location of TDM meeting within twenty-four (24) hours of establishing protection plan and/or within twenty-four (24) hours of initiating an investigation involving a Garrett's Law allegation;

(8) Enter family's demographic information into CHRIS within twenty-four (24) hours of receiving referral; and

(9) Document date and time family is informed of agreed upon TDM meeting date, time, and location in CHRIS.

(b) The FSW Supervisor who approved the protection plan and/or the supervisor of the primary FSW Investigator involving a Garrett's Law allegation will conference with FSW as needed.

(c) The Facilitator will work with FSW to confirm exact date, time, and location of meeting.

(d) The Facilitator Supervisor will:

(1) Conference with the division facilitator as needed; and

(2) Make any needed TDM referrals to the back-up facilitator by the next business day.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"1/2020"

9 CAR § 40-335. Team decision making preparation.

(a) The FSW will:

(1) Conference with the FSW Supervisor who approved the protection plan or the supervisor of the primary FSW Investigator involving a Garrett's Law allegation, as applicable, and facilitator to prepare for the TDM meeting; and

(2) Conduct the safety check-in meeting as appropriate/assigned with the biological parent or parents (or other persons responsible for care, if applicable) and any children who plan to attend the TDM meeting.

(b) The FSW Supervisor who approved the protection plan or the supervisor of the primary FSW Investigator involving a Garrett's Law allegation will:

(1) Conference with the FSW and facilitator to prepare for the TDM meeting;

(2) Determine whether or not children involved in the investigation will attend the TDM meeting;

(3) Assign the FSW, facilitator, or self as appropriate, to conduct the safety check-in meeting with the biological parent or parents (or other persons responsible for care, if applicable) and any children who plan to attend the meeting; and

(4) Conduct the safety check-in meeting as appropriate/assigned with the biological parent or parents (or other persons responsible for care, if applicable) and any children who plan to attend the TDM meeting.

(c) The Facilitator will:

(1) Review the protection plan, if applicable;

(2) Contact the family who will participate in the TDM meeting, if the family requested that the facilitator call to provide more information about the TDM process;

(3) Invite service providers or other public agency staff, including language

interpreters, if needed, to TDM meeting as appropriate;

(4) Document date and time any service providers or other public agency staff are informed of TDM meeting date, time, and location in CHRIS;

(5) Conference with the FSW and FSW Supervisor who approved the protection plan or the supervisor of the primary FSW Investigator involving a Garrett's Law allegation to prepare for the TDM meeting; and

(6) Conduct the safety check-in meeting as appropriate/assigned with the biological parent or parents (or other persons responsible for care, if applicable) and any children who plan to attend the TDM meeting.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-336. Team decision making meetings.

(a) The facilitator will:

(1) Open the TDM meeting by:

(A) Welcoming all participants;

(B) Explaining purpose of TDM;

(C) Asking all participants to complete CFS-354: Team Decision Making Meeting Sign-in Sheet and Privacy Statement;

(D) Inviting all participants to introduce themselves; and

(E) Asking Division of Children and Family Services employees or other service providers to explain their respective roles as they relate to TDM;

(2) Ask the immediate family (including age appropriate children and youth) to describe their:

(A) Understanding of the safety and/or risk issues in their home;

(B) Understanding of the protection plan, if applicable;

(C) Their perceived strengths that can be used as protective factors in addressing the specific harm or danger to the child; and

(D) Any other relevant information;

(3) Ask the FSW to describe:

(A) Identified safety factors in the home;

(B) Family's strengths that can be used as protective factors in addressing the specific harm or danger to the child; and

(C) Established protection plan, if applicable;

(4) Continue to facilitate the meeting per TDM protocols to help the TDM group to:

(A) Assess if family is adequately following established protection plan, if applicable;

(B) Decide whether changes are needed to make the protection plan more effective or better ensure child's safety, if applicable;

(C) Determine if current placement decision ensures the child's safety;

(D) Identify ways in which TDM members may support the family; and

(E) Assist the group in moving toward consensus;

(5)(A) Complete CFS-355: Team Decision Making Meeting Summary Report.

(B) The CFS-355: Team Decision Making Meeting Summary Report must include the timeframe in which division will conduct the next home visit with the family; and

(6) Provide a copy of the CFS-355: Team Decision Making Meeting Summary to the family prior to adjourning the meeting.

(b) The FSW will:

(1) Assist family with transportation as appropriate;

(2) Share information regarding identified safety issues, family strengths, and established protection plan, if applicable; and

(3) Actively participate in problem-solving and decision-making processes throughout the TDM meeting and remain open to revisions to the initial protection plan,

if applicable.

(c) FSW Supervisor who approved the protection plan or the supervisor of the primary FSW Investigator involving a Garrett's Law allegation will:

(1) Attend TDM when possible; and

(2) Conference with FSW and facilitator as needed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-337. Team decision making review.

(a) The requesting Division of Children and Family Services staff member will:

(1) Notify the entire TDM team of his or her intent to seek a review prior to the end of the TDM meeting; and

(2) Present a summary of the meeting and reason for review to the TDM Reviewer.

(b) The Facilitator will:

(1) Notify the appropriate on-call TDM Reviewer and supervisor; and

(2) Explain the review process to the TDM group.

(c) The division staff member requesting the review will present summary of the meeting and reason for review to the TDM reviewer.

(d) The TDM Reviewer (either the division County Supervisor or Area Director, as appropriate) will:

(1) Join the TDM meeting either in person or by conference call before participants leave;

(2) Listen to both summaries; and

(3) Determine whether adjustments need to be made to the decision and/or if

an interim safety plan is necessary.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-338. Team decision making follow-up.

(a) The FSW will:

(1) Meet or conference call with the Facilitator and FSW supervisor who approved the protection plan or supervisor of the primary FSW Investigator involving a Garrett's Law allegation within twenty-four (24) hours of the conclusion of the TDM meeting;

(2) If applicable, provide the Office of Chief Counsel with a copy of the protection plan and corresponding team decision making meeting summary report and request the Office of Chief Counsel to file a dependency-neglect petition with the court that will accompany the protection plan;

(3) Continue to monitor family's progress until the investigation is completed; and

(4) Share all relevant information regarding the family's protection plan, if applicable, and progress with the FSW assigned to the family's protective or foster care case, if applicable.

(b) The FSW Supervisor who approved the protection plan or the supervisor of the primary FSW Investigator involving a Garrett's Law allegation will meet or conference call with the FSW and facilitator within twenty-four (24) hours of the conclusion of the TDM meeting and as needed.

(c) The Division of Children and Family Services Facilitator will:

(1) Meet or conference call with the FSW and FSW Supervisor within twenty-

four (24) hours of the conclusion of the TDM meeting;

(2) Enter all required TDM data elements into CHRIS within three (3) business days of the conclusion of the TDM meeting and within three (3) business days of receipt of TDM data elements from the contracted facilitator when the TDM meeting is facilitated by a contract provider; and

(3)(A) Provide copies of the team decision making meeting summary report printout from CHRIS to all participants, including the family, as soon as possible following the TDM meeting.

(B) The division Facilitator is also responsible for providing copies of the team decision making summary report printout from CHRIS to all participants, including the family, as soon as possible following the TDM meeting when that TDM meeting was facilitated by a back-up facilitator.

(d) The back-up facilitator (if applicable) will provide the TDM data elements to the area division Facilitator within three (3) business days of the conclusion of the TDM meeting.

(e) The Facilitator Supervisor will conference with the division facilitator as needed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-339. Community notification of sex offenders.

(a) Upon notification to the Division of Children and Family Services by law enforcement of the presence of a sex offender, the division is responsible to notify foster parents and families with whom the division has active cases, if an offender moves into their neighborhood.

(b)(1) No child may be home schooled if any person residing in the home with the

child is required to register as a sex offender.

(2) Upon petition to the sentencing court from the child's parent or guardian, the sentencing court may enter a written order specifically waiving this restriction.

(3) This restriction shall not apply if the child to be home schooled is the person registered as the offender.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-340. Notification of sex offenders.

Upon notification, the Family Service Worker will:

(1) Notify foster parents or families with whom the Division of Children and Family Services has active cases that an offender has moved into their neighborhood;

(2) Document in the case record that notification has been provided either by giving the foster parent or family with whom the division has an active case a copy of the flyer provided by law enforcement, or by verbally providing the information contained in the flyer that an offender has moved into their neighborhood;

(3)(A) Make a report to the Child Abuse Hotline of substantial possibility of severe maltreatment if it is alleged that the offender is living in the home with children or otherwise being allowed unsupervised access.

(B) In such instances, confirmation must be obtained from law enforcement that this person is indeed a registered sexual offender against children before the report will be considered valid.

(C) Lack of supervision reports will not be handled any differently due to the presence of an offender in the neighborhood;

(4)(A) File a twenty-day petition to bring the matter to the attention of the

court if it is confirmed that the offender is living in a home with children or otherwise has unsupervised access to them, unless the parent agrees to steps outlined by the division to protect the children, regardless of whether a disclosure of sexual abuse is obtained.

(B) Some examples of steps outlined to protect the children would be to:

(i) Remove the children from the home;

(ii) Request that the offender leave the home; or

(iii) Cease allowing the sexual offender access to the children;

(5) Notify the offender's probation or parole officer that the offender is living in a home with children or has unsupervised access to them; and

(6) Document in court-ordered and Interstate Compact home studies, the presence of a sex offender in the neighborhood, along with a statement that the family is aware of the offender's presence and is fully informed regarding any possible risks to children in the community.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-341. Family in need of services.

(a) Arkansas Code § 9-27-303 defines "Family in Need of Services" (FINS) as any family whose juvenile evidences behavior which includes, but is not limited to, the following:

(1) Being habitually and without justification absent from school while subject to compulsory school attendance;

(2) Being habitually disobedient to the reasonable and lawful commands of his or her parent, guardian, or custodian; or

(3) Having absented himself or herself from the juvenile's home without sufficient cause, permission, or justification.

(b) Family services are provided in order to:

(1) Prevent a juvenile from being removed from a:

(A) Parent;

(B) Guardian; or

(C) Custodian;

(2) Reunite the juvenile with the parent, guardian, or custodian from whom the juvenile has been removed; or

(3) Implement a permanent plan for adoption, guardianship, or rehabilitation of the juvenile.

(c) **Family services provided to a juvenile or the family.** Services should be designed to address the issues that resulted in the FINS case and may include, but are not limited to:

(1) Child care;

(2) Homemaker services;

(3) Crisis counseling;

(4) Cash assistance;

(5) Transportation;

(6) Family therapy;

(7) Physical, psychiatric, or psychological evaluation;

(8) Counseling; and

(9) Treatment.

(d) **Disposition — Family in need of services.**

(1) If a family is found to be in need of services, the circuit court may enter an order making one (1) of the following dispositions:

(A)(i) Order family services to rehabilitate the juvenile and his or her family.

(ii) If the Department of Human Services is the provider for family services, the family services shall be limited to those services available by the department's community-based providers or contractors, excluding the contractors with the Division of Children and Family Services, and department services for which the family applies and is determined eligible and, to prevent removal when the department is the provider for family services, the court shall make written findings outlining how each service is intended to prevent removal; or

(B)(i) Removal.

(ii) If it is in the best interest of the juvenile and because of acts or omissions by the parent, guardian, or custodian, removal is necessary to protect the juvenile's health and safety, transfer custody to the department.

(iii) This action may serve to reduce the number of foster care entries based solely of juveniles who are truant when acts or omissions of their parents are not a factor.

(2) At least five (5) working days prior to ordering the department, excluding community-based providers, to provide or pay for family services, the court shall fax a written notice of intent to the Secretary of the Department of Human Services and to the attorney of the local Office of Chief Counsel of the department.

(3)(A) The court shall not specify a particular provider for placement or family services when the department is the payer or provider.

(B) A court may order a child to be placed into a licensed approved placement (i.e., no child shall be placed or remain in a placement in a foster home that has been closed or suspended by a child placement agency) after a hearing where the court makes a finding that it is in the best interest of the child based on bona fide consideration of evidence and recommendations from all the parties.

(C) The court may also order a child to remain in a placement if the court finds the placement is in the best interest of the child after hearing evidence from all parties.

(4)(A) If the health or welfare of a child is in immediate danger while in a court-ordered placement, the division may immediately remove the child from the court-ordered placement.

(B) If the division must move a child from a court-ordered placement due to the health or welfare of a child being in immediate danger, the division shall notify all parties within twenty-four (24) hours of the change in placement.

(C) Regarding this type of placement change, a hearing may be requested by a party to the case, and the hearing shall be held within five (5) business days of receiving the request.

(5)(A) In all cases in which family services are ordered, the court shall determine the parent's, guardian's, or custodian's ability to pay, in whole or in part, for these services.

(B) This determination and the evidence supporting it shall be made in writing in the court order ordering family services.

(C) If the court determines that the parent, guardian, or custodian is able to pay, in whole or part, for the services, the court shall enter a written order setting forth the amounts the parent, guardian, or custodian can pay for the family services ordered and ordering the parent, guardian, or custodian to pay the amount periodically to the provider from whom family services are received.

(6)(A) The division can only be ordered to provide family services in a FINS case when the court finds that services are needed to prevent removal of the child from the home because of child maltreatment.

(B) The Arkansas Juvenile Code, Arkansas Code § 9-27-301 et seq., grants the court the power to order family services without specifying the type of service, i.e., protective services or supportive services.

(C) The court will issue an order for family services, and the division is to provide those services.

(D) If there is not a finding of child maltreatment on the family, and the court determines that the family needs preventative services due to a risk of child maltreatment, open a supportive services case.

(E) If there is a true finding of child maltreatment, open a protective services case.

(e) **Removal of juvenile.**

(1) Before a juvenile court may order any dependent-neglected juvenile or FINS juvenile removed from the custody of his or her parent, guardian, or custodian and placed with the department or other licensed agency responsible for the care of juveniles or with a relative or other individual, the court shall order family services appropriate to prevent removal, unless the health and safety of the juvenile warrant immediate removal for the protection of the juvenile.

(2) When the court orders a dependent-neglected or FINS juvenile removed from the custody of a parent, guardian, or custodian and placed in the custody of the department or other licensed agency responsible for the care of juveniles or with a relative or other individual, the court shall make these specific findings in the order:

(A) In the initial order of removal, the court must find:

(i) Whether it is contrary to the welfare of the juvenile to remain at home;

(ii) Whether the removal of the juvenile is necessary to protect the health and safety of the juvenile, and the reasons for the removal; and

(iii) Whether the removal is in the best interest of the juvenile; and

(B) Within sixty (60) days of removal, the court must find:

(i) Which family services were made available to the family before the removal of the juvenile;

(ii) What efforts were made to provide those family services relevant to the needs of the family before the removal of the juvenile, taking into consideration whether or not the juvenile could safely remain at home while family services were provided;

(iii) Why efforts made to provide the family services described did not prevent the removal of the juvenile; and

(iv) Whether efforts made to prevent the removal of the juvenile were reasonable, based upon the needs of the family and the juvenile.

(3)(A) If and when an order of permanent custody disrupts, the initial legal action will be to set aside the permanent order of custody regardless of where the child resides.

(B) If parental rights have not been terminated, parents must be notified of the action and an immediate hearing to determine the new permanency plan for the juvenile will take place.

(4)(A) If a juvenile has been detained and is in the custody of the department pursuant to a FINS or dependency-neglect petition and the court does not keep the juvenile in detention, then any issues regarding placement shall be addressed only in

the FINS or dependency-neglect case.

(B) The issues regarding placement shall not be addressed, nor any orders entered, in the delinquency case.

(C) Within ten (10) days of entry of any order in the delinquency case, the prosecuting attorney shall file a copy of the order in the juvenile's FINS or dependency-neglect case.

(5) Where the state agency's first contact with the family has occurred during an emergency in which the juvenile could not safely remain at home, even with reasonable services being provided, the division shall be deemed to have made reasonable efforts to prevent or eliminate the need for removal.

(6) Where the court finds the department's preventive or reunification efforts have not been reasonable, but further preventive or reunification efforts could not permit the juvenile to remain safely at home, the court may authorize or continue the removal of the juvenile but shall note the failure by the department in the record of the case.

(7) In all instances of removal of a juvenile from the home of his or her parent, guardian, or custodian by a court, the court shall set forth in a written order:

(A) The evidence supporting the decision to remove;

(B) The facts regarding the need for removal; and

(C) The findings as mentioned above.

(8) The written findings and order shall be filed by the court or by a party or party's attorney as designated by the court within thirty (30) days of the date of the hearing at which removal is ordered or prior to the next hearing, whichever is sooner.

(9) The court may provide that any violation of its orders shall subject the parent, both parents, the juvenile, custodian, or guardian to contempt sanctions.

(10) Custody of a juvenile shall not be transferred to the department when a delinquency petition or case is converted to a FINS petition or case.

(11)(A) The department shall not recommend that the court split custody of a juvenile, that is, grant legal custody to one (1) person or agency and physical custody to another person or agency.

(B) When the juvenile is removed from the custody of a relative or other person and placed in the custody of the department, the juvenile shall not remain or be returned to the home while in the custody of the department.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-342. Family in need of services.

(a)(1) The Office of Chief Counsel attorney will fax the County Supervisor the written notice of intent from the court.

(2) The court must fax written notice of intent five (5) working days prior to ordering the Department of Human Services, excluding community-based providers, to provide or pay for family services.

(b) The FSW Supervisor will assign the FINS case to the appropriate FSW.

(c) The Family Service Worker will:

(1) Determine the appropriate case that should be opened to provide services;

(2) Open the appropriate case for service (see 9 CAR § 40-401, general services case opening and reevaluations); and

(3) Make a request for Office of Chief Counsel to file a twenty-day petition if the family is resistant.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-343. Early intervention referrals and services.

(a)(1) For children who have or are at risk of a developmental delay, appropriate early intervention services are essential.

(2) Early intervention services are designed to lessen the effects of any potential or existing developmental delay.

(3) Ultimately, early intervention services help the child learn and reach his or her individual potential with the support and involvement of the child's family, as appropriate.

(4) It is important for such services to begin as early as possible and for biological parents to be involved in decisions related to early intervention services.

(b) **Referrals to the Division of Developmental Disabilities Services for early intervention services.**

(1)(A) When a child maltreatment investigation involving any children in the home under three (3) years of age is initiated, the Division of Children and Family Services will consider referring as appropriate all children in the home under three (3) years of age to the Division of Developmental Disabilities Services' Children's Services for an early intervention (i.e., First Connections; this program is not the same as the waiver program) screening in an effort to enhance the well-being of these children.

(B) Any children under three (3) years of age involved in a substantiated case of child maltreatment (regardless of whether all of the children are named as alleged victims) must be referred to the Division of Developmental Disabilities Services' Children's Services for an early intervention screening if not already referred while the investigation was pending.

(C) This will not only ensure the Division of Children and Family Services compliance with the Child Abuse Prevention and Treatment Act (CAPTA), Pub. L. No. 93-247 regarding substantiated cases of child abuse and neglect involving children under three (3) years of age, but will further promote the well-being of this population.

(2)(A) The Division of Developmental Disabilities Services' Children's Services will screen all the children under three (3) years of age who have been referred to First Connections to determine their need and eligibility for early intervention services.

(B) If the results of the screening determine that a child will benefit from Division of Developmental Disabilities Services early intervention services, the person serving as the parent (e.g., biological parent in a protective services case or other

individual legally caring for the child involved in a protective services or foster care case including foster parents) must consent to allow his or her child to participate before services are initiated.

(3) For children under three (3) years of age, eligibility for the Division of Developmental Disabilities Services' Children's Services will be determined by a screening assessment to determine the need for additional evaluations (if a child referred to the Division of Developmental Disabilities Services' Children's Services is within forty-five (45) days or less of his or her third birthday, then the Division of Developmental Disabilities Services' Children's Services may forward the referral to the Department of Education, Special Education Unit (Part B)).

(4)(A) If warranted, a developmental evaluation for children under three (3) years of age will be completed in the areas of cognition, communication, social/emotional, physical, and adaptive as available and appropriate.

(B) Based upon the developmental evaluation results, a speech, occupational, and/or physical therapy evaluation may be conducted as available and appropriate.

(C) All evaluation results as well as medical information, a professional informed clinical opinion or opinions, and information gathered from biological parents and the Division of Children and Family Services will be utilized to determine early intervention eligibility.

(5) While a referral for early intervention services is encouraged for all children under three (3) years of age when an investigation is initiated and is required for children under three (3) years of age in substantiated cases of child maltreatment, a referral for early intervention services on behalf of any child suspected of having a developmental delay or disability may be sent at any time.

(c) **The Division of Developmental Disability Services early intervention individualized family service planning.**

(1)(A) If a child is determined to be eligible for services and the person acting as a parent on behalf of the child (e.g., biological parent involved in a protective services case; other individual legally caring for the child in a protective services or

foster care case including foster parents) consents to services, individualized family service plan (IFSP) meetings will be held to develop an appropriate service plan for the child.

(B) IFSP activities and services must be added to the child's case plan.

(2)(A) Adult participation in the IFSP meetings and related decision-making on the child's behalf is required.

(B) If the child is involved in a protective services case or if a child in foster care has a goal of reunification, the child's biological parent or parents should be invited and encouraged to attend the IFSP meetings to make decisions related to individualized family service planning and early intervention services for his or her child.

(3) However, another adult who is legally caring for the child on a daily basis may serve in place of the biological parent if:

(A) The court orders that the child's parent/guardian shall have no involvement in the child's educational planning;

(B) The child's parents cannot be located; or

(C) The goal is not reunification for those children involved in foster care cases.

(4) If for one (1) of the reasons listed above or if for any other reason the biological parent or parents is unable or unwilling to attend IFSP meetings and make the decisions related to early intervention services for his or her child, one (1) of the following may serve as the parent to make decisions regarding early intervention planning and services for the child, provided the court has not issued a no contact order for the person selected to act in place of the parent:

(A) Foster parent;

(B) Guardian, generally authorized to act as the child's parent (but not the state if the child is a ward of the state, i.e., FSW may act as the liaison between the Division of Developmental Disabilities Services and the parent or surrogate parent, but the FSW may not be the sole contact and/or decision-maker for a child);

(C) An individual otherwise acting in place of a biological parent (e.g., grandparent, stepparent, or any other relative with whom the child lives); or

(D) An individual who is legally responsible for the child's welfare.

(5)(A) For any individual serving in place of the parent in the child's early intervention process, support in the form of Division of Developmental Disability Services surrogate parent training is available but not required.

(B) The local Division of Developmental Disabilities Services Service Coordinator or designee can assist in coordinating the Division of Developmental Disabilities Services surrogate parent training.

(C) After an individual has completed the Division of Developmental Disabilities Services surrogate parent training, they may serve as a surrogate parent for any child.

(6)(A) However, an appointed Division of Developmental Disabilities Services-certified surrogate may be assigned by the lead Part C agency (i.e., Division of Developmental Disabilities Services) to represent the child during the IFSP if there is no adult (as listed in subdivision (c)(4) of this section, above) available to represent the interests of the child.

(B) An appointed Division of Developmental Disabilities Services surrogate parent is generally the least preferred option since this person does not have daily interaction with the child.

(C) Furthermore, a Division of Developmental Disability Services-certified surrogate parent will usually only be appointed in the event that the child's parent, foster parent, etc., is unable or unwilling to participate in the child's early intervention process and IFSP meetings.

(7) In any situation in which an individual other than the biological parent (e.g., foster parent, relative, etc.) is acting on behalf of the child, that individual will be discharged when the child's biological parent is ready and able to resume involvement.

(d) **Referrals for fetal alcohol syndrome disorders screening.**

(1)(A) Fetal alcohol syndrome disorders is an umbrella term used to describe the range of effects or disorders that can occur in an individual whose mother consumed alcohol during pregnancy.

(B) All healthcare providers involved in the delivery or care of infants must

contact the Department of Human Services regarding an infant born with and affected by a fetal alcohol spectrum disorder (FASD) as well as infants born with and affected by maternal substance abuse resulting in prenatal drug exposure to an illegal or a legal substance or withdrawal symptoms resulting from prenatal drug exposure to an illegal or a legal substance.

(C) A plan of safe care must also be developed for any infant born with and affected by an FASD, maternal substance abuse resulting in prenatal drug exposure to an illegal or a legal substance, or withdrawal symptoms resulting from prenatal drug exposure to an illegal or a legal substance who is referred to the Division of Children and Family Services by a healthcare provider via the Child Abuse Hotline.

(D) Please see 9 CAR § 40-329, substance exposed infant referral and assessments, and related procedures for more information.

(2)(A) In addition, the Division of Children and Family Services FSWs and health service workers (HSWs) will refer children who have known prenatal alcohol exposure or exhibit FASD symptoms or behaviors to the local resource unit.

(B) The resource unit will collaborate with the child's FSW and HSW to help determine if early intervention programs or other services specific to FASD are needed and connect the child and placement provider to such programs and services in an effort to better support the child and the placement provider.

(3)(A) As part of this process, the FSW and/or HSW will gather information regarding the child's in utero and birth history.

(B) Depending on the information collected, a referral for an FASD screening or diagnosis may be provided.

(C) Regardless of an FASD diagnosis, the following services may be offered to the family as available and appropriate:

(i) Referral to the Division of Developmental Disabilities Services (early intervention or Division of Developmental Disabilities Services waiver), if applicable and available;

(ii) Referral to specialized day care, if applicable;

(iii) Referral to FASD family support group (available to biological,

foster, and adoptive families), if available; and

(iv) FASD parenting classes (available to biological, foster, and adoptive families).

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-344. Division of Developmental Disability Services early intervention services referrals.

(a) When children under three (3) years of age are involved in a substantiated case of child maltreatment, but a case is not opened, the investigator will:

(1) Provide an overview of the benefits of early intervention services to the parent/guardian;

(2) Make a referral to the Division of Developmental Disabilities Services for each child in the home (victims and nonvictims) under three (3) years of age via the Division of Developmental Disabilities Services First Connections referrals page through the Department of Human Services website; and

(3) Inform the parent/guardian that their child or children will be referred to the Division of Developmental Disability Services' Children's Services to assess the child's or children's need and eligibility for early intervention services that may help the child learn and reach his or her individual potential.

(b) When children under three (3) years of age are involved in a substantiated case of child maltreatment and a protective services or foster care case is subsequently opened, the FSW Caseworker (either protective services or foster care, as applicable) will:

(1) Provide an overview of the benefits of early intervention services to the

parent/guardian;

(2) Make a referral to the Division of Developmental Disabilities Services for each child in the home (victims and nonvictims) under three (3) years of age via the Division of Developmental Disabilities Services First Connections referrals page through the department website;

(3) Inform the parent/guardian that their child or children will be referred to the Division of Developmental Disabilities Services' Children's Services to assess the child's or children's need and eligibility for early intervention services;

(4) Prior to the early intervention services intake meeting, provide the local Division of Developmental Disabilities Services services coordinator with:

(A) A court-order, if applicable;

(B) A copy of the Social Security card or number;

(C) A copy of the Medicaid card or number, if applicable;

(D) Any other pertinent information related to the request for the early intervention screening;

(E) A copy of EPSDT, if available (parent must obtain); and

(F) A copy of all evaluations, if applicable;

(5)(A) Coordinate remaining paperwork and services, as applicable, with the local Division of Developmental Disabilities Services service coordinator.

(B) This includes but is not limited to:

(i) Coordinating the completion of DMS-800: Authorization for Children's Medical Services if the early intervention intake meeting determines the child is eligible for the Division of Developmental Disabilities Services' children's medical services;

(ii) Providing a copy of the Division of Developmental Disabilities Services completed assessment tool for any child involved in an open case and the associated case plan once they are completed; and

(iii) Notifying, as applicable, University of Arkansas for Medical Sciences PACE, Health Service Worker, and foster parent or parents that early intervention screening referral has already been made to the Division of Developmental

Disabilities Services' Children's Services per the Child Abuse and Prevention Act, Pub. L. No. 93-247, requirements prior to PACE evaluation;

(6) Invite the Division of Developmental Disability Services services coordinator and early intervention service providers to staffing if child is receiving early intervention services;

(7) Keep the local Division of Developmental Disabilities Services service coordinator informed of any changes to the case plan that may affect early intervention services and coordination;

(8) Document contacts related to the Division of Developmental Disability Services early intervention services referral in the contacts screen in the Division of Children and Family Services' information management system;

(9) Update the child's case plan as appropriate; and

(10) Conference with supervisor as needed regarding the referral to the Division of Developmental Disability Services early intervention services.

(c) Investigative and FSW supervisors will:

(1) Conference with the investigator and/or FSW Caseworker as needed regarding the child's Division of Developmental Disability Services early intervention referral and/or any subsequent services; and

(2) Notify, as necessary, his or her supervisor of any issues related to the child's Division of Developmental Disability Services early intervention referral and/or services.

(d)(1) Upon referral assignment, the Division of Developmental Disability Services service coordinator should:

(A) Arrange the early intervention intake meeting; and

(B) Assess and determine the need and eligibility of the child for services and notify in writing the Division of Children and Family Services Family Service Worker (FSW) and FSW supervisor indicating the eligibility status and needs of the child, if applicable.

(2) If it is determined that the child needs and is eligible for early intervention services:

(A) Provide a more detailed explanation to the parent/guardian of early intervention services including types, benefits, requirements, etc.;

(B) Provide copies of the child's IFSP and any early intervention evaluations to the FSW; and

(C) Keep the child's FSW and person serving as the parent informed of the child's progress and any changes in services.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

9 CAR § 40-345. Division of Developmental Disabilities Services early intervention individualized family service planning.

(a) The FSW will:

(1)(A) Regardless of the type of case (i.e., protective or foster care), include early intervention services and individualized family service planning (IFSP) meetings in the case plan as appropriate and ensure the biological parent participates in IFSP and related services as appropriate.

(B) If the biological parent is unable or unwilling to participate in IFSP (e.g., court orders that the child's parent/guardian shall have no involvement in child's educational planning, parents cannot be located, goal is not reunification):

(i)*(a)* Ensure that an appropriate adult serving in place of the parent attends the IFSP meetings to act as a decision-maker regarding the child's early intervention services.

(b) The person serving in place of the parent is generally the person who is currently caring for the child (e.g., temporary guardian, foster parent, etc.);

(ii) Ensure that a no-contact order from the court pertaining to the person serving in the place of the parent does not exist and that the surrogate parent is otherwise appropriate;

(iii) If the person selected to serve in the place of the parent would like to attend a Division of Developmental Disabilities Services surrogate parent training, contact the division Service Coordinator to request the Division of Developmental Disabilities Services Service Coordinator to arrange the training; and

(iv) If the individual caring for the child/serving in place of the parent cannot attend or otherwise participate in the IFSP meetings, the Division of Developmental Disabilities Services will appoint a Division of Developmental Disabilities Services-certified surrogate parent;

(2) Continue to update child's case plan accordingly with information from IFSP; and

(3) Conference with supervisor as needed regarding the child's IFSP.

(b) The FSW Supervisor will:

(1) Conference with the FSW as needed regarding the child's IFSP; and

(2) Notify, as necessary, his or her supervisor of any issues related to the child's IFSP.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-346. FASD referrals and services.

(a) **Note.**

(1) This procedure is applicable to those children already involved in an open Division of Children and Family Services case and who the division staff or providers

suspect may be affected by FASD.

(2) This procedure is not applicable to infants born with and affected by FASD or prenatal drug exposure and reported to the Child Abuse Hotline by a healthcare provider.

(3) Please see 9 CAR § 40-329 and related procedures for more information regarding infants born with and affected by FASD and prenatal drug exposure.

(b) If child is symptomatic of FASD, the Family Service Worker (FSW) or Health Service Worker (HSW) will:

(1) Gather information regarding the child's in utero and birth history to determine if the biological mother consumed alcohol (e.g., at what points during the pregnancy, amount consumed, frequency consumed, etc.) and/or any illegal substances while pregnant with child;

(2) Complete and submit CFS-099: FASD Screening Referral to the appropriate Resource Supervisor or designee;

(3) Collaborate with the Resource Unit to ensure the child and placement provider receives any necessary referrals and accesses any needed services; and

(4) Conference with supervisor as needed regarding FASD referrals and services.

(c) The FSW Supervisor will:

(1) Conference with the FSW as needed regarding FASD referrals and services; and

(2) Notify, as necessary, his or her supervisor of any issues related to the FASD referrals and services.

(d) The Resource Supervisor or designee will:

(1) Review the CFS-099: FASD Screening Referral;

(2) Assign the referral to a local Resource Worker; and

(3) Provide the completed CFS-099: FASD Screening Referral to the assigned Resource Worker for review.

(e) The assigned Resource Worker will:

(1) Review the CFS-099: FASD Screening Referral; and

(2) Work with the child's FSW and Health Service Worker to coordinate appropriate referrals and screenings for the child and placement provider.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-347. Policy — Sex offender with custody or unsupervised visitation rights.

When the Division of Children and Family Services receives a report that a child is living with or participating in unsupervised visits with a registered sex offender, the division will find the report "unsubstantiated" when:

(1) A court has ruled that the registered sex offender, as a custodian or participant in unsupervised visitation does not pose a risk to the child; and

(2) No other allegations have been made regarding the offender and the children and the report is simply based on the mere fact that the offender is a registered sex offender.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-348. Procedure — Sex offender with custody or unsupervised visitation rights.

When investigating a report that a child is living with or participating in unsupervised visits with a registered sex offender, the Family Service Worker will:

(1) Determine if a court has granted custody or unsupervised visitation to the registered sex offender;

(2) When a court has granted custody rights or unsupervised visitation to a registered sex offender, the FSW must obtain a copy of the court order or divorce decree, and must designate the case as "UN-SUBSTANTIATED", if no other allegations have been made regarding the offender and the children and the report is simply based on the mere fact the offender is a registered sex offender; and

(3)(A) Document the investigative determination and the individual findings for each child on the "Investigation Findings" screen in CHRIS.

(B) Individual findings for each victim are also documented on the "Investigation Finding" screen.

(C) CHRIS will automatically populate the overall finding (true, unsubstantiated, exempted from finding due to religious exemption, or exempted from finding underage juvenile offender) based on the individual findings.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Subpart 4. Services Case Openings

9 CAR § 40-401. General services case opening and reevaluations.

(a)(1) The Division of Children and Family Services will open cases to ensure safety and promote the best interest of the child and to provide services to strengthen, reunify, and assist families.

(2) This will be accomplished through the delivery of supportive, protective, adoptive (see 9 CAR § 40-901 et seq., for adoptive services) or out-of-home placement services as deemed appropriate by assessment.

(3) The purpose of services shall be to:

(A) Provide the child with a continuous and stable living environment;

(B) Promote family autonomy;

(C) Strengthen family life where possible; and

(D) Promote the reunification of the child with the parent, guardian, or custodian, when applicable.

(b)(1) The division will ensure a determination of Title IV-E/Medicaid eligibility is obtained for each child placed in an out-of-home setting or subsidized adoption.

(2) When a child is removed from his or her home, a judicial determination as to whether reasonable efforts were made or were not required to prevent removal must be made no later than sixty (60) days from the date the child is removed from the home.

(3) Eligibility for Title IV-E foster care maintenance payments will be based on the following requirements:

(A) The child was removed from the home of a specified relative pursuant to judicial determination to the effect that:

(i)*(a)* Continuation in the residence in the home would be contrary to, or that the placement would be in the best interest of, the child.

(b) The contrary-to-the-welfare determination will be made in the first court ruling that sanctions (even temporarily) the removal of a child from the home.

(c) If the determination regarding "contrary to the welfare" is not made in the first court ruling pertaining to removal from the home, the child will not be eligible for Title IV-E maintenance subsidy for the duration of that stay in foster care; and

(ii)*(a)* A finding of or a deeming of reasonable efforts is required.

(b) The judicial determination must state that reasonable efforts to prevent a child's removal from home or to reunify the child and family are not required;

(B)(i) The child's placement and care in a foster family home or with a public or private child placement or childcare agency is the responsibility of either the Department of Human Services or any other public agency with whom the department

has an agreement.

(ii)*(a)* "Childcare agency" means a private childcare agency, or a public childcare agency which accommodates no more than twenty-five (25) children, and is licensed by the state in which it is situated or has been approved by the agency of such state or tribal licensing authority (with respect to childcare institutions on or near Indian reservations) responsible for licensing or approval of institutions of this type as meeting the standards established for such licensing, except in the case of a child who has attained eighteen (18) years of age, the term includes a supervised transitional living setting in which the individual is living independently.

(b) This definition must not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

(iii) The licensing file must contain documentation that verifies that safety considerations with respect to the staff of the institution have been addressed;

(C)(i) The child received aid (for the purposes of the FSPP Manual "aid" is defined as AFDC program requirements in effect July 16, 1996) in or for the month in which court proceedings leading to the removal of the child from the home were initiated, or would have received aid in or for the month if application for such aid had been made, or had been living with a specified relative within six (6) months prior to the month in which court proceedings were initiated, and would have received aid in or for such month if he or she had been living with such relative and an application had been made for aid under Title IV-A.

(ii) In any case where the child is an alien disqualified by the Immigration and Nationality Act of 1952, 8 U.S.C. § 1101 et seq., from receiving aid in or for the month in which court proceedings leading to the removal of the child from the home were instituted, such child shall be considered to satisfy the requirements with respect to that month, if he or she would have satisfied such requirements but for such disqualification.

(iii) The Office of Chief Counsel will be consulted if the child's immigration status must be addressed in any manner; and

(D)(i) The child was living with a specified relative prior to removal from the home and was AFDC-eligible (per AFDC requirements in effect July 16, 1996) for in that home in the month of the initiation of court proceedings.

(ii) Or the child had been living with the parent or specified relative within six (6) months of the month of the initiation of court and the child would have been AFDC-eligible in that month if he or she had still been living in that home (constructive removal).

(c)(1) A child of a parent who is in department custody is also considered a dependent juvenile and is eligible to receive foster care maintenance payments and is deemed to be a recipient of AFDC.

(2) Titles XIX and XX services will be available to the child in the state in which the child resides.

(d)(1) The State of Arkansas is not a voluntary placement state.

(2) The removal of a child from his or her home must occur pursuant to a judicial order placing custody of the child with the department.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "AFDC" means Aid to Families with Dependent Children.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2011"

9 CAR § 40-402. Protective/supportive services case opening.

The Family Service Worker will:

(1)(A) Gather data from the family about the needs of the family and place the information in the Family Advocacy and Support Tool (FAST).

(B) This information is located in the "Case Plan/Needs Assessment"

section on the "Family Screen";

(2) Enter all necessary data in CHRIS to create a client screen for each household member;

(3) Review all information in the contact automatically populated from "case connect" screen into the contacts screen for the newly opened case;

(4) Ensure that any current protection plan with a nearing thirty-day reassessment date is noted and that a reassessment of the safety of the child occurs within thirty (30) days of the implementation of the current plan; and

(5) File an affidavit for dependency-neglect for any plan which has been reassessed and it is determined that a substantial risk of harm to the health and safety of the child remains.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-403. Out-of-home placement services case opening.

The Family Service Worker will:

(1) Complete the "Case Connect" screen in the investigation to open a case;

(2) Enter the appropriate information in the open case on the "Removal" screen in the "Removal" section of CHRIS;

(3)(A) Enter the appropriate information in the "Placement" section of CHRIS and within the "Place" section on "Recommend", "Pay Scale", and "Enter/Exit" screens.

(B) Entering information in CHRIS on the first placement of a removal episode will generate a message to "Review/Complete Initial Medicaid Application";

(4) Enter the appropriate information on the "Gen. Info" and "Status" screens and on the "Employ" and "Education" screens under the "Emp/Educ" heading in the

"Client" section;

(5) Enter the appropriate information on the screens under the "Medical" heading in the "Client" section;

(6) Photograph the child or children, and:

(A)(i) With the child in a comfortable, nonintimidating setting, explain the need to take his or her photograph.

(ii) Facilitate this in as sensitive a manner as possible;

(B)(i) Using a digital camera provided by the Division of Children and Family Services, take a digital photograph (head shot from the shoulders up) of the child or children entering foster care.

(ii) The photograph should be taken within three (3) working days of the date the child entered foster care;

(C)(i) Upload the image as a JPEG to the CHRIS case record.

(ii) The electronic file size should be no larger than five hundred kilobytes (500 KB);

(D) Print the photograph using the "Photo and Child Information" functionality in CHRIS and add a hard copy of the photograph to the case record;

(E) Delete the photo from the camera stick after the photo has been uploaded into the CHRIS application;

(F) Provide the child with a copy if they request one;

(G)(i) If the child remains in foster care, the FSW who is his or her primary or secondary caseworker will retake the photograph on an annual basis within ten (10) working days prior to the date the child entered foster care.

(ii) Each time a new photograph is taken, update the electronic version in the CHRIS system and the hard copy in the case record.

(iii) The photograph may be:

(a) Shared with law enforcement and the National Center for Missing and Exploited Children to help facilitate the recovery of missing children, or for other official law enforcement purposes that are in the best interest of the child;

(b) Used for staffings, team decision making meetings, or court

procedures if children are not present;

(c) Included in placement applications; and

(d)(1) Used in the child's life book.

(2) The photograph used for the life book should be printed using the "Photo Only" functionality in CHRIS;

(H) As with other electronic equipment that contains sensitive client information, precautions should always be taken to protect confidentiality and the images of all children being served by the division;

(I) A DHS 5008 must be completed for the camera and the camera must be enabled for read-only connection to the computer; and

(J) For any child already placed in care, but lacking a photograph, the FSW who is his or her primary or secondary caseworker should take his or her photograph at the next visit between the FSW and the child and follow the procedures and specifications listed above;

(7) Issue an initial clothing order, if needed, using the division P card requisition;

(8)(A) Initiate a request for Medicaid within one (1) working day of the date the child enters Department of Human Services custody by completing the following actions:

(i) Ensure all relationship screens are completed in CHRIS;

(ii) Ensure all information in client demographic screens is current including the "financial" tab; and

(iii) Complete removal and placement screens for each child in foster care and ensure the placement is approved by a supervisor.

(B) If the FSW has been notified that the CHRIS system will be down, and he or she cannot transmit the initial Medicaid application within the one-day time frame, only then will he or she complete and fax a paper copy of the CFS-487: Application for Title IV-E Payments/Medicaid to the Eligibility Unit;

(9) Route the signed court order to Family Support Specialist (Eligibility Unit);

(10)(A) Apply for Title IV-E payments/Medicaid.

(B) Complete the "Application for Social Security Card" (SS-5) if the child does not already have a Social Security number or the number is not known:

(i) Sign the SS-5 as the division representative for the case; and

(ii) Route the SS-5 to the United States Social Security Administration and copy to the family support specialist;

(11) Enter income, debts, and asset information in the client/finance screens in CHRIS for each member of the removal household;

(12)(A) Enter necessary information on the Medicaid/IV-E Application screen (four (4) tabs) in CHRIS in order to complete the application and click "Send" to transmit the application to the Eligibility Unit.

(B) Send the completed Medicaid/IV-E application to the eligibility unit within seven (7) working days from the date the child entered the out-of-home-placement.

(C) Other information needed to establish Title IV-E Medicaid eligibility, e.g., birth certificate, Social Security number, removal order, petition that led to removal, etc., should also be sent to the Eligibility Unit if available at that time;

(13) Obtain any additional requested information and forward it to the family support specialist within ten (10) working days;

(14) Within ten (10) working days of any delay, notify the family support specialist of the information which cannot be obtained and the reason;

(15) Review all information in the contact automatically populated from the investigation "case connect" screen into the contacts screen for the newly opened case; and

(16) Continue the Family Advocacy and Support Tool (FAST) or Child and Adolescent Needs and Strengths (CANS) assessment, as applicable, with family participation.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of

Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-404. Case reevaluation for Medicaid redetermination purposes.

The Family Service Worker will:

(1) Receive the printout of cases due for reevaluation from the Foster Care/Medicaid Eligibility Unit;

(2)(A) Receive CHRIS tickler notification of Medicaid/IV-E case redetermination.

(B) Complete the redetermination screen in CHRIS (three (3) tabs) and click "Send" to transmit the redetermination to the Eligibility Unit for processing.

(C) The Eligibility Unit will be notified by an automated process for reporting "Changes" in CHRIS when changes are made to the case record for the following circumstances:

(i) Child eighteen (18) years of age;

(ii) Child left care;

(iii) Trial visit;

(iv) Runaway;

(v) Parental rights terminated;

(vi) Child sixteen (16) to nineteen (19) years of age/not in school;

(vii) Child placed for adoption;

(viii) Insurance; and

(ix) Placement/address change.

(D) If a child is born to a child in Department of Human Services custody, then the FSW will check "Client Gave Birth" on the changes tab of the redetermination/changes screen in CHRIS; and

(3) Mail a DHS-160: Notice to Applicants for and Recipients of Title XX services at least ten (10) days prior to the change in service, if the family signed the application

and service is to be reduced or terminated.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-405. Out-of-home placement outside the initiating county.

(a) The Family Service Worker Supervisor from the primary (initiating county office) will:

(1) Notify (telephone, fax, or email) the FSW Supervisor in the resident county office prior to moving the child or children; and

(2)(A) Within twenty-four (24) hours following the above notification, assign the resident county as secondary on the assign/transfer screen in CHRIS.

(B) Include a brief summary of services needed for the client in the assign/transfer screen and ensure all contact information is correct in the client CHRIS demographics screens.

(b) The Family Service Worker in the primary (initiating) county will:

(1)(A) Within twenty-four (24) hours, email secondary FSW a list of important dates and summary of service needs for the client.

(B) This list should include scheduled court dates, scheduled staffings, and previously scheduled transportation needs (i.e., University of Arkansas for Medical Sciences PACE evaluations, visitation with family, approved contact list, special medical needs, etc.);

(2) Continue providing casework services to the custodial/noncustodial parents as determined by the case plan;

(3) Maintain a case file including such non-CHRIS (hard copy) items as legal and medical documents;

(4) Provide the resident county FSW a copy of the case file with non-CHRIS items;

(5) Key data (e.g., case plan changes) into CHRIS as appropriate;

(6) Collaborate with primary FSW to develop and process any needed purchase orders (P Card Request, DHS 1914) for the child;

(7) Collaborate with secondary FSW to complete approved purchases by emailing purchase approvals to secondary FSW for completion of purchases, as appropriate;

(8) Request Medicaid determinations/reevaluations by the Division of Children and Family Services Eligibility Unit and submit needed documentation;

(9) Develop the initial case plan and subsequent changes as per 9 CAR § 40-501;

(10) Arrange staffings as needed and maintain a current case plan;

(11) Ensure that the secondary FSW is invited to staffings and that all applicable case information is gathered from secondary FSW for necessary adjustment of CANS ratings and case service planning;

(12) Place information about visitation responsibilities (which county will transport, which county will supervise visits) in the "visitation" section of the family case plan;

(13) Contact the secondary FSW a minimum of once monthly by phone or email and enter a contact in CHRIS demonstrating the collaboration of service provision, any information obtained regarding service provision, coordination of purchasing needs, coordination of childcare needs, and documenting any placement issues identified;

(14) Ensure provision of services to facilitate reunification or other permanency arrangements as appropriate;

(15)(A) Arrange, coordinate, and ensure transportation is provided for parent/child visits.

(B) Consideration should be given to use of relative or fictive kin volunteers when appropriate.

(C) Additional consideration should be given to transporting parents rather

than children in an effort to decrease travel hardships for children; and

(16) Notify the secondary FSW immediately of any changes in plans for care of the child.

(c) The Family Service Worker (secondary) in the county of residence will:

(1) Participate in staffings and case plan development;

(2) Assist the foster home or facility with implementing case plan goals by monitoring progress for each goal and making service referrals as necessary;

(3) Notify primary FSW by email if financial needs are identified;

(4) Take lead on completing necessary paperwork for purchases and coordinate with primary FSW to ensure completion of purchasing requests;

(5) Complete purchases upon receipt of approved requisitions;

(6)(A) Keep the primary FSW informed of all progress, problems, and child experiences through CHRIS documentation and during monthly/as needed contact with the primary FSW.

(B) Issues needing immediate attention should be documented in an email to the primary FSW and his or her supervisor;

(7)(A) Obtain a progress report from facility staff every month following a child's placement in a facility and forward a copy to the primary FSW.

(B) The court may order progress reports from the service provider whenever a child is placed out of home and in a setting other than a department foster home.

(C) The order will set forth the schedule for the progress reports and will identify the service provider responsible for submitting the progress report.

(D) The service provider will be provided a copy of the written court order by certified mail, restricted delivery, or by process server.

(E) Failure to follow the order of the court will subject the service provider to contempt sanctions of the court.

(F) The progress report will include, but is not limited to:

(i) Reason for admission;

(ii) Projected length of stay;

(iii) Identified goals and objectives to be addressed during placement;

(iv) Progress of the child in meeting goals and objectives;

(v) Barriers to progress;

(vi) Significant behavioral disruptions and response of provider; and

(vii) Recommendations upon the child's release.

(G) The service provider will immediately report any incidents concerning the juvenile's health or safety to the child's attorney or attorney ad litem and the custodian of the child;

(8) Notify the primary FSW immediately of any change in the plans for care of the child;

(9) Notify the primary county by telephone within twenty-four (24) hours, and make all other necessary notifications (e.g., foster parents) if an emergency change in placement is necessary;

(10) Make regular foster home/facility visits to the child/children as per the case plan;

(11) Assist the primary county in arranging for the parent/child/sibling visits as outlined by the primary FSW in the case plan or as otherwise coordinated by primary FSW; and

(12) Complete any necessary incident reports (e.g., disruption) and provide the primary county a copy.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-406. Notification of relatives and fictive kin when a child is taken into custody by the division.

(a) The Division of Children and Family Services shall exercise due diligence to identify and provide notice to all adult grandparents, all parents of a sibling of the juvenile where the parent has legal custody of the sibling, and other adults who are related to the child transferred to the custody of the division within the third degree of kinship by virtue of blood, adoption, or marriage.

(b)(1) Additionally, the division will provide notice to any other adult relatives suggested by the parents of the child.

(2) Per Arkansas Code § 9-28-107, the division may provide notice of a child transferred to the custody of the division to fictive kin which are persons who have a strong, positive, emotional tie to the child and have a positive role in the child's life but are not related by blood, adoption, or marriage.

(3) The division will, on a continuing basis, seek out for the purpose of identifying potential opportunities for permanency, persons with whom the child has meaningful relationships.

(4) The division will document its attempts to provide notice in court reports.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2015"

9 CAR § 40-407. Notice to relatives and fictive kin.

(a) **Notices**. The Family Service Worker will:

(1)(A) Provide notice using CFS-323-A: Notice to Adult Relatives by Blood, Adoption, or Marriage that a Child Has Been Taken into DCFS Custody to all adult relatives by blood, adoption, or marriage within the third degree of kinship, all parents of a sibling of the juvenile where the parent has legal custody of the sibling, as well as any other adult relatives suggested by the parents of the child.

(B) The Division of Children and Family Services should provide notice using CFS-323-B: Notice to Fictive Kin that a Child Has Been Taken into DCFS Custody to any adults identified as having a positive, meaningful relationship with the child and/or could offer needed services and supports to the child and/or his or her family;

(2) Send notices within thirty (30) days after the child is transferred to the custody of the division;

(3)(A) Send notices to additional persons of interest who are identified at any point in time during the child's stay in foster care (within thirty (30) days of identification) until permanency is achieved.

(B) Notices need not be sent to any adult relative or fictive kin who has:

(i) A pending charge or past conviction or plea of guilty or nolo contendere for family or domestic violence; or

(ii) A true finding of child maltreatment in the Child Maltreatment Central Registry.

(C) However, if it is determined that the relative may have a meaningful relationship with the child and the charge, conviction, or true finding is such that the relative is not considered to pose a threat to the child, the notice may be sent;

(4) In the document tracking screen in CHRIS, select the CFS-323-A: Notice to Adult Relatives by Blood, Adoption or Marriage that a Child Has Been Taken into DCFS Custody or CFS-323-B: Notice to Fictive Kin that a Child Has Been Taken into DCFS Custody, as appropriate, and enter the following information:

(A) Date sent;

(B) Description text field;

(C) Comments text field;

(D) Document issued on behalf of the client – select the client; and

(E) Document issued to recipients – select relative client;

(5) Contact by phone any individual to whom CFS-323-A: Notice to Adult Relatives by Blood, Adoption or Marriage that a Child Has Been Taken into DCFS Custody or CFS-323-B: Notice to Fictive Kin that a Child Has Been Taken into DCFS Custody was sent within five (5) working days of sending the notification to more fully

explain the options that the specific individual may have in terms of providing a temporary home for or otherwise staying in contact with the child who was taken into Department of Human Services custody;

(6) Document the date and time of all phone contact attempts (whether successful or unsuccessful in speaking with the individual) and the result of each attempt in the CHRIS contacts screen;

(7) If, after three (3) attempts of trying to reach an individual to whom CFS-323-A: Notice to Adult Relatives by Blood, Adoption or Marriage that a Child Has Been Taken into DCFS Custody or CFS-323-B: Notice to Fictive Kin that a Child Has Been Taken into DCFS Custody was sent, the Family Service Worker is unable to reach him or her, the FSW may cease trying to contact the individual; and

(8) Enter the following information as appropriate on the Relative/Fictive Kin Interest Information tab within the Court Report Screen in CHRIS under the Relative/Fictive Kin Interest Detail if the individual indicates interest in providing support to the child:

(A) Child;

(B) Relative/fictive kin;

(C) No Relative/fictive kin identified checkbox (if applicable);

(D) Notified date; and

(E) Under the "Interested in Participating in the Care and Placement of Child" section, each grouping has a checkbox and when selected the text box will become mandatory to enter the information on the following:

(i) Provisional home;

(ii) Foster home;

(iii) Kinship guardianship; and

(iv) Desires visitation.

(b) **Court reports.** The Family Service Worker will include the following information in the CFS-6011: Court Report:

(1) Outline of the efforts made by the division to identify and notify all adult relatives including all parents of a sibling of the juvenile where the parent has legal

custody of the sibling, that the child is in the division's custody;

(2) A list of all adult relatives and the response of each relative to the notice, including:

(A) The adult relatives' interest in participating in the care and placement of the child;

(B) Whether the adult relative is interested in becoming a provisional foster parent or foster parent of the child; and

(C) Whether the adult relative is interested in visitation;

(3) Outline of the efforts made by the division to identify and notify any fictive kin that the child is in the division's custody; and

(4) A list of all fictive kin and the response of each fictive kin to the notice, including whether fictive kin is interested in becoming a provisional foster parent or foster parent of the child.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2015"

9 CAR § 40-408. Coordination with the Office of Child Support Enforcement.

(a)(1) The Division of Children and Family Services will coordinate with the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration to ensure that foster care cases are referred so that support can be paid to the Department of Human Services while the child remains in Department of Human Services custody.

(2) Foster care cases in which paternity is an issue will also be identified and referred.

(3) A referral for child support will be made for each parent involved in a foster care case meaning the parents from whom the child was removed, absent parents, and putative fathers.

(b)(1) The Family Service Worker will refer foster care cases to by completing the relationships screen in CHRIS with family-identifying information.

(2) In addition, the Family Service Worker will provide information as needed and coordinate with the office after an office (IV-D) case is opened.

(3) The CHRIS system generates the referral to the office after a child has been in foster care for thirty (30) days.

(4) Once an office case is opened, office has responsibility to coordinate with the support payer and for arranging and paying for paternity testing.

(c)(1) Child support monies will be paid to and managed by the Department of Human Services.

(2) Child support monies collected will be used to reimburse the state for foster care board payments and other expenses as appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2010"

9 CAR § 40-409. Division of Children and Family Services coordination with the Office of Child Support Enforcement.

(a) The Family Service Worker will:

(1) Complete the relationships screen in CHRIS;

(2) Initiate the referral to the Office of Child Support Enforcement, Revenue Division of the Department of Finance and Administration by selecting yes from the Refer to Child Support Enforcement Unit radial button on the relationships screen;

(3) Be the contact person with authority to advise the Office of Child Support Enforcement on the status of the family and case as casework progresses; and

(4) Receive and act on notices, e.g., requests for information sent by the Office of Child Support Enforcement.

(b)(1) The CHRIS system will generate information to the Office of Child Support Enforcement based on information entered into CHRIS by the Family Service Worker.

(2) CHRIS will:

(A) Notify the Office of Child Support Enforcement when parental rights have been terminated so the child support case can be closed;

(B) Advise the Office of Child Support Enforcement when custody changes and the child leaves foster care;

(C) Notify the Office of Child Support Enforcement when a child's demographic information changes such as name, SSN, etc.; and

(D) Provide the Office of Child Support Enforcement with the following information when custody changes:

(i) Where the child is placed; and

(ii) Where child support payments are to be sent:

Department of Human Services
P.O. Box 8181
Little Rock, AR 72203.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "SSN" means Social Security number.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2010"

9 CAR § 40-410. Resolution of denial of Medicaid service.

(a) When a particular service is denied for an otherwise Medicaid-eligible child in foster care, the Division of Children and Family Services will attempt to resolve the issue by discussing the issue with the appropriate Division of Medical Services representative.

(b) If the issue cannot be resolved internally, the Division of Children and Family Services will file an appeal according to established Division of Medical Services guidelines.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2008"

9 CAR § 40-411. Internal resolution.

(a) If a Medicaid-eligible child in foster care is denied a Medicaid service and the Family Service Worker disagrees with the denial, the Family Service Worker will:

(1) Notify the Division of Children and Family Services Client Advocate; and

(2) Complete a Department of Human Services appeal form (DHS-1200) and provide to the Client Advocate.

(b) The Client Advocate will:

(1)(A) Contact the Director of the Division of Medical Services or his or her designee and attempt to resolve the issue by providing any additional information and documentation regarding the child and his or her need for the denied service.

(B) The issue must be resolved prior to the expiration of the thirty-day Medicaid appeal timeframe, to allow for a formal appeal in the event that the issue cannot be resolved internally; and

(2)(A) Notify the FSW when the Division of Medical Services makes a determination as to the outcome of the internal appeal.

(B) If the denial is upheld, the Client Advocate may initiate an external appeal.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2008"

9 CAR § 40-412. External resolution.

(a) If a Medicaid-eligible child in foster care is denied a Medicaid service and an attempt to resolve the issue through the internal resolution process has been unsuccessful, the client advocate will, with agreement of the Director of the Division of Children and Family Services, notify the contract attorney for children in foster care.

(b) The contract attorney will:

(1) File an appeal on behalf of the child according to the guidelines established by the Division of Medical Services;

(2) Complete a Department of Human Services appeal form (DHS-1200); and

(3) File the form with the Office of Appeals and Hearings within thirty (30) days of the date on the notification letter.

(c) The Office of Appeals and Hearing will make a final decision regarding eligibility for a Medicaid service and send written notification of the final agency determination to the appropriate parties.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of

Arkansas Rules provided as follows:

"09/2008"

9 CAR § 40-413. Client drug and alcohol screening.

(a) **Overview.**

(1)(A) Drug and alcohol use are often contributing factors to child maltreatment.

(B) As such, there are times when drug and/or alcohol screening for clients is necessary to ensure appropriate interventions are provided to the family.

(C) However, drug and alcohol screening alone are neither treatment interventions nor child safety interventions.

(D) The use of drug and alcohol screens and the corresponding results are only one (1) component in the assessment of child safety and risk as well as the strengths and protective capacities of families.

(E) It is also important to recognize that drug screens administered by the Division of Children and Family Services staff are only presumptive screening tools.

(F) As such, only the results of a lab-confirmed drug test (not a drug screen) can definitively confirm the presence of a specific drug.

(2)(A) The division will conduct drug and alcohol screening of clients (e.g., parents, caretakers, youth) when appropriate during a child maltreatment investigation or during the course of any type of open division case.

(B) It is considered appropriate to conduct a client drug or alcohol screen if the division staff has reasonable cause to suspect that a youth involved in a division investigation or case is using drugs and/or alcohol or has reasonable cause to suspect a child's parents or caretakers are under the influence of drugs and/or alcohol to the point that their parenting abilities are negatively impacted.

(C) Reasonable cause to suspect may include past history of drug and/or alcohol abuse and/or observable client behavior indicating he or she may be under the influence of drugs or alcohol.

(b) **Frequency and location of drug and alcohol screens.**

(1)(A) The division may request random drug or alcohol screenings of a youth, parent, or caretaker for reasonable cause.

(B) The division will also conduct drug screens for clients as outlined in court orders, when applicable.

(2)(A) If a client is participating in a substance abuse treatment program that requires frequent random drug screening or has a probation or parole officer who conducts frequent random drug screens, then drug screens conducted by the division are not necessary (unless a court order specifies the division must administer drug screens rather than accepting drug screens from another qualified provider).

(B) The results from the drug screens conducted by the substance abuse treatment program, probation officer, or parole officer will suffice (see preceding court order exception) as long as the substance abuse treatment program, probation officer, parole officer, etc., provides the written results of the drug screens to the division in a timely manner.

(C) If results are not received from the substance abuse treatment program, probation officer, parole officer, etc., within court timeframes or as otherwise needed by the division, then at that point it will become necessary for the division to conduct an additional drug screen.

(D) The division will remain responsible for providing written drug screen results to the court regardless of the entity that conducts the screen.

(3)(A) Appropriate locations for drug and/or alcohol screenings for clients thirteen (13) years of age and older may include, but are not limited to, the county office, client home, and court house, as appropriate.

(B) While the division staff may conduct drug or alcohol screens on teenagers when necessary, all children younger than thirteen (13) years of age for whom a drug screen or test is needed will be referred to a physician or medical facility to have an appropriate screen or test completed (e.g., hair shaft test) at no cost to the client.

(C) If parental consent for a necessary drug screen or test on a minor is

not granted, the division will obtain an order of investigation to conduct a drug screen or test for children and youth.

(D) For drug screens or tests for children who are less than thirteen (13) years of age, the division staff will accompany them to a qualified agency for the screen or test.

(c) **Types of drug screens utilized by the division.**

(1)(A) The division staff will conduct only oral fluids and urine specimen drug screenings.

(B) Only drug and alcohol screens from the division-approved vendor will be used by the division staff.

(C) The division staff will only administer drug and alcohol screens according to training and procedures provided by the vendor.

(2)(A) Division staff will keep record of their completion of training and complete training updates as needed.

(B) An employee who has not completed the division-approved vendor drug screening training will neither administer a drug or alcohol screen to a client nor serve as a witness to drug or alcohol screen results (witnesses to drug screen results are only required when results of the drug screen are unclear and/or challenged by the client).

(C) While interns (stipend and nonstipend) may observe the division staff working with drug and alcohol screens, interns will never independently conduct drug or alcohol screens on clients nor will they serve as an official witness to drug or alcohol screen results.

(3)(A) Written screening instructions provided by the division-approved vendor will be kept in a binder clearly identified as such in all county offices.

(B) County office personnel are responsible for maintaining all updates to the screening instructions that the Central Office Prevention and Support Unit provides to the field.

(4)(A) Court ordered (or otherwise deemed necessary) hair shaft tests, blood tests, or other drug screens that are not the standard division oral fluids or urine

specimen screens administered by division staff will be handled on an individual basis.

(B) All requests for payment of hair shaft tests, blood tests, or other nonstandard drug screens will be made via the Area Financial Coordinator or designee to the Central Office Financial Unit.

(C) Such tests and screens will be paid with a state procurement card or purchase order with prior approval from the Central Office Financial Unit.

(d) **Client refusal of screens.**

(1) If not previously court ordered, parents or caretakers may decline participating in their own drug and/or alcohol screens.

(2) Any refusal must be documented in CHRIS.

(3) The drug and/or alcohol screen may not be pursued further without a court order.

(4) If the adult client refuses to submit to any court ordered drug or alcohol screen:

(A) The screen will be documented in CHRIS as a refusal; and

(B) The refusal will be disclosed to the court.

(e) **Actions following screen results.**

(1)(A) Regardless of the results of the drug screen, division staff will verbally share the results of the screen with the client.

(B) The division staff will also record the results of the screen with the client via the CFS-150: Drug and Alcohol Screen Results form.

(2)(A) If drug and/or alcohol screen results are positive, the division must assess how the drug and/or alcohol usage is impacting the parent/caretaker's ability to effectively parent and ensure child safety prior to making decisions about the placement of the child, parent-child visits, and/or other case plan requirements.

(B) A positive drug or alcohol screen in and of itself will not result in the postponement and/or withholding of visits between a parent and child in Department of Human Services custody unless:

(i) The parent is under the influence of drugs and/or alcohol at the time of the scheduled visit and has observable behavior indicating impairment of

parenting capacity; or

(ii) A court order specifies that a parent's positive screen will result in the withholding of parent-child visits.

(f) **Client challenges to drug or alcohol screen results.**

(1)(A) For each division-administered drug screen that is positive, the division will pay for one (1) lab test of that positive drug screen if it is challenged by the client.

(B) If the lab test confirms the presence of the drug or drugs, then the division will not pay for further testing of that positive screen and/or lab confirmation.

(C) However, if a consistent pattern of positive screens followed by client requests for lab confirmations of each screen that also return positive emerges, the division will have the discretion, in consultation with other parties to the case, to cease paying for continued lab confirmation tests requested by the client.

(2)(A) If a client challenges the results of a division administered drug or alcohol screen, the client may elect at his or her own expense to have another entity (e.g., hospital for drug and alcohol screens, local police station for alcohol screens only) conduct another drug and/or alcohol screen or test rather than the division sending the screen to the lab for testing.

(B) The division will accept the results of urine or blood sample screens or tests from other qualified agencies as long as a division employee is able to immediately accompany the client to the qualified agency and provided the qualified agency conducting the screen gives results in writing to the division.

(g) **Confidentiality of drug and alcohol screen results.**

(1) All data, information, and results related to client drug and/or alcohol screens are confidential.

(2) Disclosure of information will only be to those individuals whose official business duties necessitate disclosure or as required by law.

(3) Breaches of confidentiality will constitute grounds for disciplinary action to include the possibility of job termination.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"10/2014"

9 CAR § 40-414. Administering client urine specimen drug screens.

(a) The Division of Children and Family Services employee will:

(1) Ask client to put away his or her purse, bag, jacket, etc., and ask client to empty all of his or her pockets;

(2)(A) Observe, but not touch, each of the client's pockets to ensure they are empty.

(B) The only item the client may take into the restroom stall is the collection container;

(3) Escort the client to the restroom;

(4) Directly observe the clients wash their hands without soap;

(5)(A) Give the client only the collection container.

(B) The client must not have access to the screen;

(6) Instruct the client to fill the cup to the marked line;

(7)(A) Observe the client enter the restroom, close the door to give privacy to the client, but remain immediately outside the restroom.

(B)(i) Do not directly observe the client in the process of urination unless court ordered to observe.

(ii) If court ordered to observe, the witness must be the same gender as the client;

(8)(A) If the client has difficulty giving a specimen, have the client drink eight ounces (8 oz.) of water and wait up to two (2) hours for the client to give a urine specimen.

(B) As such, do not attempt to conduct the drug screen if a minimum of three (3) hours are not left in the workday;

(9)(A) After the cup has been returned to the FSW or designee, visually examine the specimen.

(B) Suspicion of adulteration and/or dilution will be indicated by the pH screen and temperature gauge;

(10) Verbally share and explain the drug screen results to the client;

(11) Document the results via CFS-150: Drug and Alcohol Screen Results Form and gather all required signatures on the CFS-150: Drug and Alcohol Screen Results Form;

(12) If the client does not challenge the screening results:

(A) Return the specimen cup to the client after the specimen has been screened and the results documented;

(B) Ask client to dispose of the contents in the toilet or urinal, flush, and discard the container in the designated trash container;

(C) Place the top copy of the CFS-150: Drug and Alcohol Screen Results Form in the client record;

(D) Retain the middle copy for submission to court;

(E) Give the client the bottom copy of the completed CFS-150: Drug and Alcohol Screen Results Form;

(F) Scan and email the completed CFS-150: Drug and Alcohol Screen Results Form to all parties to the case; and

(G) Document drug and alcohol screen results and any other relevant information associated with drug and alcohol screen results in CHRIS as applicable; and

(13) If the client challenges the screening results, please refer to 9 CAR § 40-415, Urine specimen drug screen challenges.

(b) The division Supervisor will:

(1) Ensure all staff administering and/or serving as witnesses to drug screen results have successfully completed the division-approved drug and alcohol vendor training; and

(2) Conference with the FSW as needed regarding need for screening and any subsequent action steps.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"10/2014"

9 CAR § 40-415. Client urine specimen drug screen challenges.

(a) If urine specimen drug screen results are positive and the client challenges the result, the Division of Children and Family Services employee will:

(1)(A) Inform the client that the specimen will be sent to the lab for drug testing confirmation.

(B) However, if the division staff initially conducted the drug screen at the client's home, the division employee may offer to rescreen the client at the county office that same day and have another division staff person serve as a witness to the results of the second screening;

(2) The chain of custody will be maintained throughout the entire challenge process;

(3) Complete the county specific vendor challenge form;

(4)(A) Write the client specimen identification number found on the county's vendor challenge form/mailing strip on the CFS-150: Drug and Alcohol Screen Results Form.

(B) The client specimen identification number is the identifier used in the subject line of the email that the lab sends when emailing the FSW with the challenge results.

(C) This number is the only way to match the challenge results to the correct client so it is extremely important to record the client specimen identification number prior to mailing the challenge screen to the lab; and

(5)(A) Prepare the urine specimen for laboratory screening (lab will not

process urine specimens that are received without proper identification).

(B) Notify the division Prevention and Support Manager or designee that the collection will be sent for lab confirmation by faxing a copy of the chain of custody, prior to the urine specimen being sent to the lab.

(C) Check for leakage of the collection device prior to mailing/sending the specimen for confirmation screening.

(D)(i) Use the supplied FedEx mailer envelopes to send the challenged, positive, urine specimens to the lab.

(ii) If samples taken on weekends or after FedEx facility closes during the week, refrigerate samples until they are delivered to FedEx facility for shipment.

(E) To access challenge results, contact the Area Financial Coordinator or designee for instructions on how to access the lab confirmation results via the internet.

(F)(i) If challenge results are contested, documentation of the chain of custody of urine specimen shall be verified by affidavit of one (1) person witnessing the procedure or extraction, packaging, and mailing of the samples and by one (1) person signing for the samples at the location where the samples are subject to the testing procedure.

(ii) Submission of the affidavits, along with the submission of the screening results, shall be competent evidence to establish the chain of custody of those urine specimens.

(iii) For a court ordered screening, a written report of the results may be prepared by the person conducting the screening, or by a person under whose supervision or direction the screen and analysis have been performed.

(iv) This report must be certified by an affidavit subscribed and sworn to before a notary public.

(v) This report may be introduced in evidence without calling the person as a witness, unless a motion challenging the screening procedures or results has been filed within thirty (30) days before the hearing and bond is posted in an amount sufficient to cover the costs of the person's appearance to testify.

(b) If the alcohol screen results are positive and the client challenges the results,

the division staff will inform the client he or she may immediately obtain a blood test from a qualified agency or immediately take a Breathalyzer test at the local police station.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"10/2014"

9 CAR § 40-416. Administering other client drug and alcohol screens.

The Division of Children and Family Services employee will:

(1) Refer to vendor information for screen (e.g., K2 strip, ALCO screen) collection procedures and interpreting results;

(2) Under normal circumstances, limit the entire screening process to fifteen (15) minutes;

(3) Verbally share and explain the drug screen results to the client;

(4) Document the results via CFS-150: Drug and Alcohol Screen Results Form and gather all required signatures on the CFS-150: Drug and Alcohol Screen Results Form;

(5) If the specimen screening results are positive and the client challenges the result:

(A)(i) Prepare the oral fluids specimen for laboratory confirmation, if applicable, for that specific screen.

(ii)*(a)* Do not dispose of an oral fluids specimen that needs to be sent to the screening laboratory for confirmation testing.

(b) Send the specimen to the lab per the vendor's instructions.

(c) Access lab confirmation results (see Area Financial Coordinator for more information).

(d)(1) If challenge results are contested, documentation of the chain of custody of specimen shall be verified by affidavit of one (1) person witnessing the procedure or extraction, packaging, and mailing of the samples and by one (1) person signing for the samples at the location where the samples are subject to the testing procedure.

(2) Submission of the affidavits, along with the submission of the screening results, shall be competent evidence to establish the chain of custody.

(3) For a court ordered screening, a written report of the results may be prepared by the person conducting the screening, or by a person under whose supervision or direction the screen and analysis have been performed.

(4) This report must be certified by an affidavit subscribed and sworn to before a notary public.

(5) This report may be introduced in evidence without calling the person as a witness, unless a motion challenging the screening procedures or results has been filed within thirty (30) days before the hearing and bond is posted in an amount sufficient to cover the costs of the person's appearance to testify; and

(B) If the oral fluid specimen is not able to have a laboratory confirmation and the client still wishes to challenge the result, immediately accompany the client to a qualified agency for confirmation testing provided the qualified agency will give results in writing to the division; and

(6) If the client does not challenge the results of the screening:

(A) Return oral fluids screening kit to the client after the specimen has been tested and results documented;

(B) Ask client to discard the kit in the designated trash container; and

(C) Observe client throwing away kit in designated trash container.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"10/2014"

9 CAR § 40-417. Maintenance and reordering of drug and alcohol screens.

(a) The county office will:

(1) Store the drug screen kits at room temperature (do not leave drug screen kits in vehicles for storage purposes as this will impair the effectiveness of the drug kits);

(2) Maintain an adequate supply of drug screening materials, to include copies of drug screening information, at all times;

(3) Monitor closely the specimen collection supplies (county office supply stock will not fall below fifteen (15) kits);

(4) Drug screen kits past their expiration dates will not be used and will be disposed of immediately (expiration date will be clearly marked on each drug screen kit);

(5) Use new supplies only after current supplies are depleted;

(6) If the county has several kits nearing expiration, order new drug and/or alcohol screen kits as well as challenge kits directly from the Division of Children and Family Services-approved vendor and copy the Prevention and Support Unit on the order request; and

(7) Address questions pertaining to chain-of-custody-challenged screening to the Central Office Prevention and Support Unit.

(b) The Central Office Prevention and Support Unit will:

(1) Ensure funds are available for all drug and alcohol screen kit orders and challenge kit orders;

(2) Email the division-approved vendor to inform them whether to move forward with county order request (based on availability of funds) and copy county point of contact on the email;

(3) Respond to the county office regarding questions related to the division-

approved drug screen and challenge kits; and

(4) Serve as a liaison between the county office and the division-approved drug screen vendor as necessary.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"10/2014"

9 CAR § 40-418. Services case opening for infants born to juveniles in the physical custody of the Division of Youth Services.

(a) The Division of Children and Family Services is responsible for coordinating services with the Division of Youth Services to ensure that infants born to youth in the physical custody of the Division of Youth Services will be placed in a healthy, safe, and caring environment upon the infants' discharge from the hospital.

(b) The responsibilities and duties of each agency is delineated in the Department of Human Services Division of Children and Family Services – Division of Youth Services Cooperation Agreement, which is posted on CHRIS Net and is subject to renewal annually.

(c) To determine the individual responsibilities and operational protocol of the two (2) agencies, see the specifics of the agreement.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2008"

9 CAR § 40-419. Coordination of services, care, and case opening for infants born to juveniles in the physical custody of the Division of Youth Services.

(a) The Division of Children and Family Services responsibilities and duties:

(1) To ensure the well-being of an infant born to a juvenile in the physical custody of the Division of Youth Services, the Division of Children and Family Services Assistant Director of Field Operations or designee shall:

(A) Work collaboratively with the Division of Youth Services; and

(B) Function as the liaison between the Division of Youth Services and the Division of Children and Family Services; and

(2)(A) Upon receipt of information from the Division of Youth Services that a juvenile in their custody is pregnant, the Division of Children and Family Services Assistant Director of Field Operations or designee will be responsible for contacting and coordinating services with the appropriate Division of Children and Family Services county staff and the Division of Youth Services staff.

(B) In order to ensure the health and safety of any infant born to a juvenile in the physical custody of the Division of Youth Services, the Division of Children and Family Services Assistant Director of Field Operations or designee shall perform the following duties:

(i) Contact the appropriate Division of Children and Family Services county office to notify them of the referral from the Division of Youth Services;

(ii) Forward all information to the appropriate Division of Children and Family Services county office concerning the juvenile and designated caregivers;

(iii)*(a)* Coordinate all information sharing between the county office and the Division of Youth Services.

(b) If the county office needs any additional information from the Division of Youth Services, the county must contact the Division of Children and Family Services Assistant Director of Field Operations; and

(iv)*(a)* Track all referrals to the county office until the infant is placed

with a designated caregiver or with the Department of Human Services.

(b) The Division of Children and Family Services Assistant Director of Field Operations or designee will develop a log to track all referrals and maintain a status of the referrals.

(b) In order to ensure the health and safety of any infant born to a juvenile in the physical custody of the Division of Youth Services, the Division of Children and Family Services county office shall perform the following duties:

(1) Contact the identified caregiver or caregivers to determine their willingness to take custody of the child at birth and to care for the child until the parent is released from the Division of Youth Services;

(2) Explain to the prospective caregiver that:

(A) If his or her home study, including a central registry check, a Division of Arkansas State Police criminal background check, and vehicle safety (DMV) check, is approved, the Division of Children and Family Services will petition the court for them to take custody of the child at birth, and the Division of Children and Family Services would have no further involvement in the case; and

(B) A prospective caregiver has the option of becoming a foster family only if they need assistance in the care of the child;

(3) Coordinate the services between other counties if the juvenile identifies more than one (1) potential caregiver and any of the prospective caregivers live in different counties;

(4) Subsequent to declining a prospective caregiver due to an unfavorable home study, contact other county offices as necessary to have those counties conduct home studies on other identified potential caregivers;

(5)(A) Conduct a home study, including a central registry check, a Division of Arkansas State Police criminal background check, and vehicle safety (DMV) check on the family that is the most willing to take the infant and willing to work for the best interest of the juvenile.

(B) County office staff can use contracts for conducting the home studies if contracts are available;

(6)(A) Once a favorable home study is completed on a prospective caregiver, explain to the prospective caregiver that the Division of Children and Family Services will petition the court for them to obtain emergency custody of the child.

(B) The home study needs to be completed and approved, if possible, prior to the infant's birth;

(7) If the home study is completed and approved within the first or second trimester of the pregnancy, then after the child is born but before placement, complete a walk-through of the prospective caregiver's home to ensure the home remains appropriate (a new home study is not required, only a walk-through);

(8) Contact the Office of Chief Counsel on each case so that there is appropriate court involvement; and

(9) Identify cases as FINS non-Division of Children and Family Services involvement as appropriate.

(c)(1) If an appropriate caregiver is willing to take custody of the child, the Division of Children and Family Services will not take custody but will file a petition for dependency due to the parent being incarcerated.

(2) The petition will ask for emergency custody to be given to the caregiver once the baby is born.

(3) Placement with the approved caregiver will be the requested placement and not placement with the department.

(d)(1) If there is no appropriate caregiver or if the identified caregiver is not willing to take custody of the child but expresses that they would like to become a foster parent for the child, the Division of Children and Family Services will petition the court for custody of the infant and open the caregiver's home as a provisional foster home if the approved caregiver is a relative or fictive kin.

(2) If the approved caregiver is not a relative or fictive kin and wants to become a foster parent for the infant, the infant will have to be placed in an approved foster home until the caregiver becomes an approved licensed foster home.

(e) **Release of infant.**

(1) The Division of Children and Family Services Assistant Director of Field

Operations or designee will immediately notify the appropriate county office of the juvenile's entry into the hospital for delivery or immediately after the juvenile delivers the infant.

(2) Upon notification, the county office will immediately notify the approved caregiver of the juvenile's entry into the hospital for delivery of the child.

(3) The Division of Children and Family Services shall be responsible for initiating any legal proceedings necessary to facilitate the placement or release of the infant or infants.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-420. Service case opening for infants if abortion results in live birth.

The Division of Children and Family Services is responsible for the immediate and on-going care of infants born alive as the result of an attempted abortion if before the abortion, the pregnant woman, or if married, the pregnant woman and her spouse, have stated in writing that they do not wish to keep the infant if the abortion results in a live birth and the writing is not retracted before the abortion.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-421. Coordination of services, care, and case opening for infants if abortion results in live birth.

(a) To ensure the well-being of an infant, when abortion results in live birth, the Family Service Worker (FSW) will:

(1) Place an immediate hold on the infant, regardless of the medical status of the infant;

(2) Notify the Office of Chief Counsel immediately that a hold has been exercised to initiate a dependency petition;

(3) Communicate with the current medical provider to determine the medical condition of the infant and to coordinate necessary medical services; and

(4) Refer the child's case to the Adoption Supervisor.

(b) The FSW Supervisor will:

(1) Ensure the child's case is referred to the Adoption Supervisor timely; and

(2) Coordinate with Adoption Supervisor to ensure services for the child while transitioning to an appropriate preadoptive placement.

(c) The Adoption Specialist will carry out the same actions as those listed for the Adoption Specialist in 9 CAR § 40-917.

(d) The Adoption Supervisor will assign an Adoption Specialist within twenty-four (24) hours.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-422. Services case opening for cases involving incarcerated parents.

(a) The Division of Children and Family Services is responsible for coordinating services with the Department of Corrections and Arkansas Sheriff's Association to ensure the immediate and on-going assessment and provision of services to incarcerated parents of juveniles.

(b) The division will make diligent efforts to locate incarcerated parents and to determine what services are available to those parents during their incarceration.

(c) When working with parents incarcerated through the Department of Corrections, the responsibilities and duties of the Department of Corrections and the division are delineated in the Arkansas Department of Human Services-Arkansas Department of Corrections Memorandum of Understanding (MOU), which is posted on CHRIS Net and are subject to renewal every three (3) years.

(d) To determine the individual responsibilities and operational protocol of the agencies, see the specifics of the MOU.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-423. Coordination of services, hearings, and visitation for incarcerated parents.

(a) In order to ensure adequate communication with and provision of services to incarcerated parents, the Family Service Worker (FSW) will:

(1)(A) Attempt to locate incarcerated parents at all stages of service provision, including during investigations.

(B) Efforts to locate will include, at a minimum:

(i) Conducting a Lexis Nexis search;

(ii) Searching local jail, Department of Corrections, etc., for inmate

information at: www.vinelink.com;

(iii) Checking Administrative Office of the Courts Public Court Connect at: https://caseinfo.arcourts.gov/cconnect/PROD/public/ck_public_qry_main.cp_main_idx; and

(iv) Contacting the reporter and any listed collaterals from the current and former investigations and cases to ask for information about the location of the parent;

(2) Document reasonable efforts to identify and locate incarcerated parents at all stages of service provision, including during investigations, in CHRIS contact screens, court reports, and affidavits;

(3) Contact the identified Department of Corrections facility or local detention facility (city or county jail) and determine:

(A) The appropriateness of visitation and venue for parent-child visitation for children in foster care by assessing the following:

(i) Whether the parent is under any restriction by the facility that would affect visitation;

(ii) Whether the facility has any limitations to visitation such as lack of space or lack of staff to meet facility protocols;

(iii) Whether the facility is an appropriate venue for visitation based on the child's age, trauma history, and current developmental status;

(iv) Whether the distance to the facility is prohibitive for routine visitation based on the child's educational and developmental status;

(v) Whether the facility is open to allowing volunteer relatives/fictive kin to transport to visitation; and

(vi) Whether the visitation can be accommodated in another manner such as Skype, Video Visitation, letter writing, email, or Facetime; and

(B) How to adequately assess and coordinate services for the incarcerated parent by:

(i)*(a)* Determining if the detention facility staff will assist in the

completion of the parent's portion of the CANS and in identifying necessary services for the parent.

(b) The FSW will complete the CANS by phone with the parent if detention staff is unable to assist;

(ii) Coordinating with the Department of Corrections or the local detention facility to ensure that services identified are provided to the inmate (whether provided directly by the detention facility staff/contract providers or by Division of Children and Family Services staff providing the services to the inmate in the facility and/or by sending educational materials to the facility for the inmate);

(iii)*(a)* Sending staffing notices via CFS-590: Invitation to Family-Centered Meeting to the identified detentions contacts.

(b) The FSW will notify the contact that the incarcerated parent is invited to participate in the staffing by telephone if the parent requests to do so at least twenty-four (24) hours prior to the scheduled time for the staffing to begin.

(c) It will be the incarcerated parent's responsibility to schedule with ADC or the local detention facility to have phone privileges as necessary;

(iv) Adding the incarcerated parent to the CANS assessment and case plan while including all services provided by the detention facility;

(v)*(a)* Requesting written progress reports and certificates of completion for services from the detention facility.

(b) Attach all documents obtained to the written court report for upcoming hearings and place a copy of all correspondence with the detention facility in the physical case record;

(vi) Coordinating discharge planning, including determining who will be the assigned parole/probation officer, when appropriate; and

(vii) Providing a copy of local assistance organizations and services available for the tentative county of residence to the incarcerated parent thirty (30) days prior to the parent's discharge from the detention facility;

(4) Coordinate joint decision making as to the appropriateness of visitation with assigned attorneys ad litem, CASAs, and parent counsel;

(5) Provide the incarcerated parent with a copy of all case plans, court reports, and court orders via standard mail to the Department of Corrections or local detention facility contact person; and

(6) Coordinate services with resident county:

(A) Refer the case for resident county services in the CHRIS assignment screen;

(B) Email resident county FSW and copy resident county supervisor with a summary of service needs and requests;

(C) Invite resident county FSW to staffings via CFS-590; and

(D) Maintain minimum monthly contact with resident county FSW in an effort to coordinate on-going services, monthly face-to-face contact with the incarcerated parent, and parent-child visitation.

(b) FSW Supervisor will:

(1) Monitor to ensure diligent efforts to locate incarcerated parents;

(2) Attend staffings to assist in determining the appropriateness of services and visitation; and

(3) Ensure case assignment to and coordination of services with resident county.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-424. Services case opening for cases involving active duty service members.

(a)(1) The Division of Children and Family Services is responsible for coordinating services with Little Rock Air Force Base to ensure the immediate and on-going

assessment and provision of services to active duty service members who are involved in open Division of Children and Family Services cases.

(2) This includes:

(A) Reports involving as an alleged victim a child of an active duty service member, as an alleged offender a person who is an active duty service member; and

(B) Any report alleging child maltreatment:

(i) That occurred during an activity conducted or sanctioned by the United States Department of Defense or its subdivisions; or

(ii) Occurring at a facility operated by the United States Department of Defense or its subdivisions.

(b) The Division of Children and Family Services will make diligent efforts to locate active duty service members and to determine what services are available to those clients through the Family Advocacy Program (FAP) on the military installation and via the Division of Children and Family Services.

(c) The FAP at Little Rock Air Force Base will act as the central point of contact for all military branches and installations within the State of Arkansas.

(d) The Little Rock Air Force Base FAP will coordinate, on behalf of Little Rock Air Force Base and other Arkansas military branches and installations, with the Division of Children and Family Services/Crimes Against Children Division to:

(1) Develop a plan of investigation;

(2) Share information; and

(3) Coordinate the provision of necessary services for active duty service members.

(e) The FAP will determine eligibility for and coordinate available service provision through the base to active duty service members.

(f) Only the service member who was active duty at the time of the incident will be eligible for services through the military installation.

(g)(1) Not all military installations have services available locally.

(2) The specific responsibilities and duties of each agency are delineated in the Department of Human Services-Little Rock Air Force Base Memorandum of

Understanding (MOU), which is posted on CHRIS Net and is subject to renewal every three (3) years.

(h) To determine the individual responsibilities and operational protocol of the two (2) agencies, see the specifics of the agreement.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-425. Coordination of services for active duty service members.

(a) To ensure coordination of services for active duty service members, both on and off base, the Family Service Worker (FSW) will:

(1)(A) Review the initial case connect contact to determine if Little Rock Air Force Base was notified of the active duty service member's involvement in the Division of Children and Family Services case.

(B) If the FSW determines that notifications to the Little Rock Air Force Base were not made, the FSW will contact the FAP during duty hours at 501-987-7377 and provide notification;

(2) Ensure the client screen for the active duty service member contains an accurate Social Security number and that the "active duty service member" check box is checked;

(3) Enter the FAP as a collateral in the open case and document all contacts with the FAP in the case contact screen;

(4) Contact FAP at 501-987-7377 and coordinate the following:

(A) Contact with active duty service member/family if residence is on base;

(B) Determination of what, if any, services are available for the service member through the FAP; and

(C) Termination of services and case closure; and

(5)(A) Assist in providing case management updates for ongoing services directly provided by the division.

(B) Upon request, furnish FAP with written progress reports and/or assessments to include any agreements, stipulations, or court orders for ongoing services.

(b) When removal of a child becomes necessary:

(1) Consider that when the suspected offender is the active duty service member, the member's military commander has the authority to order the alleged offender out of the home; and

(2) Contact the Security Forces Law Enforcement desk at 501-987-3221 if there is a concern for the safety of staff members or the victim or victims.

(c)(1) In situations where a military order is deemed appropriate for an active duty service member to have no contact with the alleged victim, provide FAP with suggested instructions regarding authorized contact between the alleged victim or victims and the suspected active duty service member.

(2) Such instructions may include guidance about phone, letter, electronic, or unsupervised/supervised face-to-face contact.

(d) The FSW Supervisor will:

(1) Ensure referrals for active duty service members are provided to the FAP timely; and

(2) Ensure open and accurate communication continues between the division and the FAP for the duration of the division involvement with the family.

Authority. Arkansas Code § 20-76-201.

Codification Notes. "FAP" means family advocacy program.

Subpart 5. Assessment of Family Strengths and Needs to Develop Individualized Case Plans

9 CAR § 40-501. Family assessments.

(a) **Overview.**

(1)(A) The assessment of a family's strengths and needs is the basis for developing individualized goals and identifying services and supports to meet the family's needs.

(B) The family shall be a primary source of information for the assessment with emphasis on the partnership with the family and a holistic view of their circumstances.

(C) Other agencies or individuals with knowledge of the family's circumstances will also be consulted as appropriate.

(2)(A) Family assessment is an approach to engaging families while also collecting and organizing information at critical decision points in every case.

(B) A thorough assessment of family functioning includes evaluating risk and/or safety factors that are barriers to family functioning as well as protective factors that may mitigate risks and/or safety factors.

(b) **Assessment tools used for in-home and out-of-home services cases.**

(1)(A) The Family Advocacy and Support Tool (FAST) is the family assessment instrument used for all in-home services cases (to include supportive services cases, see 9 CAR § 40-301, preventive services for more information, but excluding differential response cases).

(B) The Child and Adolescent Strengths and Needs (CANS) tool is the family assessment instrument used for all out-of-home placement cases.

(C) The 0 – 4 CANS will be used for all children from birth through four (4) years of age involved in an out-of-home placement while the 5+ CANS will be used for all children five (5) years of age and older involved in an out-of-home services case.

(D) The only reason for which both a FAST and CANS will be completed with the same family is if there is still a child left in the home while another child is

removed from the home.

(2)(A) The FAST and CANS are multiple purpose information integration tools that are designed to be the output of the assessment process.

(B) This allows the Division of Children and Family Services to more consistently communicate the needs and strengths of children and their caregivers involved with in-home and out-of-home services cases, respectively.

(C) The use of the FAST or CANS does not replace professional judgment.

(D) As such, while the FAST and CANS will help inform the in-home services and out-of-home placement case plans, respectively, the completion of a FAST or CANS does not write the case plan.

(3)(A) During the completion of both the FAST and the CANS, the FSW will ensure family involvement and receive input from:

(i) Parents;

(ii) Caregivers;

(iii) Children;

(iv) Service providers; and

(v) Extended family members.

(B)(i) Just as each child is rated individually using the FAST or CANS, as appropriate, each of the child's primary caregivers will be rated as individuals.

(ii) I.e., if a child has two (2) or more primary caregivers in the home such as a mother, stepfather, and maternal grandmother, all three (3) of these primary caregivers in the home will be rated individually.

(iii) Likewise, if a child has two (2) primary caregivers who live in different homes such as a mother and father who are divorced, then both of these primary caregivers will be rated as individuals.

(C)(i) Caregivers and other parties to the case will receive a copy of the FAST and/or CANS output document.

(ii) Anyone else involved in the development of the FAST and/or the CANS may receive the FAST and/or CANS output document, as applicable, upon request within the parameters of Arkansas Code § 9-28-407 (see 9 CAR § 40-208,

confidentiality, for more information).

(4)(A) For in-home services cases the FAST will be completed within thirty (30) days of case opening and every three (3) months thereafter to correspond with required case staffings and prior to case closure.

(B) The FAST may be updated more frequently as needed.

(C) With each FAST update, the case plan will also be updated accordingly.

(5)(A) The CANS will be completed within thirty (30) days of the child entering out-of-home placement or thirty (30) days of case opening, whichever occurs first.

(B) Subsequent CANS will be every three (3) months thereafter and prior to case closure.

(C) The CANS may be updated more frequently as needed.

(D) With each CANS update, the case plan will also be updated accordingly.

(E) If a four-year-old child will turn five (5) years of age by the time the next CANS is due, either the 0 – 4 CANS or the 5+ CANS may be used for the child at that point in time.

(6)(A) An individual performing the family assessment will be trained and certified in the use of FAST and CANS.

(B) FAST and CANS recertification must be completed on an annual basis.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2015"

9 CAR § 40-502. Family assessments using the FAST and CANS.

(a) The Family Service Worker will:

(1) Explain the general purpose of the FAST or CANS to the family, as applicable;

(2)(A) Meet several times with the parents, caregivers, children, service providers, and extended family members to conduct a thorough and complete FAST or CANS, as applicable.

(B) Complete the FAST at a minimum:

(i) Within thirty (30) days;

(ii) Every three (3) months thereafter; and

(iii) Prior to case closure.

(C) Complete, at minimum, the CANS within thirty (30) days of the child entering out-of-home placement or within thirty (30) days of case opening, whichever comes first, every three (3) months thereafter, and prior to case closure;

(3) Explain the overall outputs of the FAST or the CANS to the family, as applicable;

(4) If at any time during the completion of an initial or subsequent FAST or CANS, or at any other point during a protective services or foster care case, there is reason to believe a child involved in a protective services or foster care case is a victim of sex trafficking or at risk of being a sex trafficking victim:

(A) Document accordingly in CHRIS and conference with the FSW supervisor to determine appropriate next steps for additional screening related to sex trafficking victims and/or referral to appropriate services, with incorporation of any referrals and/or services into the case plan;

(B) Report information on children or youth who have been identified as a sex trafficking victim to local law enforcement immediately, and in no case later than twenty-four (24) hours after receiving the information; and

(C) Document in CHRIS contacts when local law enforcement is notified of a child being identified as a sex trafficking victim;

(5) Obtain the necessary signatures on the approved FAST or CANS, as applicable;

(6) Attach the approved and signed FAST or CANS, as applicable, to the case

plan;

(7) Provide the caregivers and other parties to the case with a copy of the FAST and/or CANS output document, as applicable; and

(8) Provide a copy of the FAST and/or CANS output document to anyone else involved in the development of the FAST and/or CANS upon request, within the parameters of Arkansas Code § 9- 28-407 (see 9 CAR § 40-208, confidentiality, for more information).

(b)(1) The FSW Supervisor will conference with the FSW as necessary during the completion of the FAST or CANS.

(2) Approve the FAST at a minimum within thirty (30) days, every three (3) months thereafter, and then prior to case closure but only once the appropriate family assessment instrument has been sufficiently completed.

(3) Approve the CANS at a minimum:

(A) Within thirty (30) days of the child entering out-of-home placement or within thirty (30) days of case opening, whichever comes first;

(B) Every three (3) months thereafter; and

(C) Prior to case closure, but only once the appropriate family assessment instrument has been sufficiently completed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2017"

9 CAR § 40-503. Services case plan.

(a)(1) The case plan is a written document that is a discrete part of the case record between the family and the Division of Children and Family Services that outlines a plan of services and supports and articulates needed changes in order to ensure the child's

safety.

(2) The case plan:

(A) Addresses the family's needs;

(B) Builds on the family's strengths;

(C) Outlines the roles and responsibilities of all involved parties; and

(D) Provides appropriate timeframes in which each action listed on the case plan will be completed.

(3) The ultimate goal of the case plan is to assist the family in rectifying the issues that resulted in division involvement.

(4) Case plans will be developed after a thorough assessment of a family's strengths and needs.

(5) The strengths and needs identified via the Family Advocacy and Support Tool (FAST) will inform the development of the case plan for supportive and in-home services case plans.

(6) The strengths and needs identified via the Child and Adolescent Needs and Strengths (CANS) functional assessment will inform the development of the case plan for out-of-home cases.

(7) Using the information from the FAST or CANS, as applicable, to help identify priority needs and strengths, the case plan will then be developed with the involvement of:

(A) Family;

(B) The age-appropriate children;

(C) The foster parents (if applicable) and the attorney ad litem (if there is court involvement);

(D) The Family Service Worker; and

(E) Any other involved parties.

(b)(1) The case plan will be updated as necessary following updates to the FAST and/or CANS.

(2) Consideration of the health and safety of a child must be included in case planning for children involved in all case types.

(3) No child in an out-of-home placement will have a case plan goal of reunification for longer than twelve (12) months, unless otherwise ordered by the court.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2015"

9 CAR § 40-504. Case plan.

(a) The Family Service Worker will:

(1) Review the:

(A) Most current FAST or CANS, as appropriate, for the child and family;

(B) Investigation allegation;

(C) Findings from the allegation; and

(D) Reason for removal, if applicable;

(2) Assign actionable items on the FAST or CANS into subgroupings as appropriate;

(3)(A) Complete an initial case plan in CHRIS within thirty (30) days of opening a services case or a child entering an out-of-home placement, whichever comes first.

(B) A case plan must be completed on all cases — including supportive services and in-home services cases — and will include the following:

(i) A description of the out-of-home placement, if applicable, with regard to the health and safety of the child;

(ii) A plan for ensuring a child receives safe and proper care;

(iii) A discussion of the appropriateness of the services that have been provided to the child;

(iv) A plan for ensuring services are provided to the child and caregiver to improve conditions in the caregiver's home and facilitate return of the

child, if applicable, or the permanent placement of the child;

(v) A plan for ensuring services are provided to the child and foster parents to address the needs of the child while in out-of-home placement, if applicable;

(vi) The visitation rights and obligations of the parents, guardian or custodian, and the Division of Children and Family Services during the period the child is in an out-of-home placement, if applicable;

(vii)*(a)* A description of the location of siblings.

(b) If siblings are separated, the reasons why joint placement would be contrary to the safety or well-being of any of the siblings as well as documentation of efforts for frequent visitation or other ongoing interaction, unless the division documents that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings;

(viii) A transitional plan for a child fourteen (14) years of age or over that will help prepare the child for successful transition to adulthood (see Policy VIII-A);

(ix) A discussion of how the case plan is designed to achieve a safe placement for the child in the least restrictive (most family-like) setting available and in close proximity to the home of the caregiver or caregivers when the case plan goal is reunification, and a discussion of how the placement is consistent with the best interests and special needs of the child;

(x) The reasons why it is in the best interest of the child if he or she has been placed in an out-of-home placement, if applicable, that is a substantial distance from the home of the caregiver or has been placed out-of-state;

(xi) A discussion of the safety and appropriateness of the placement and how the division plans to carry out the judicial determination made with respect to the child that:

(a) Continuance in the home is contrary to the welfare of the child, or that placement would be in the best interest of the child; and

(b) Reasonable efforts to prevent a child's removal from home or to reunify the child and family are not required;

(xii) If the child has been placed in foster care in a state outside the

state in which the child's caregiver or caregivers are located, ensure that the caseworker of either state visits the foster home or institution no less frequently than every six (6) months and submits a report on the visit to the state agency of the state where the home of the child's parent or parents is located;

(xiii)*(a)* Assurance that each child who has attained the minimum age for school is a full-time elementary or secondary school student or has completed secondary school.

(b) This includes:

(1) Public schools;

(2) Private schools; and

(3) Home school programs.

(c) This should also include the most recent information available regarding:

(1) Names and addresses of the child's health and educational providers;

(2) Child's grade level performance;

(3) Child's school record;

(4) Assurances the child's placement in foster care, if applicable, takes into account the proximity to the school in which the child is enrolled at the time of placement; and

(5) Any other relevant education information concerning the child determined to be appropriate;

(xiv) The health records of the child including the most recent information available regarding:

(a) Record of the child's immunizations;

(b) Child's known medical problems;

(c) Regularly updated information regarding any medical conditions that cause the child to be incapable of attending school (see 9 CAR § 40-719);

(d) Child's medications; and

(e) Any other relevant health information concerning the child determined to be appropriate; and

(xv)*(a)* Documentation of the steps taken to:

(1) Find an adoptive family or other permanent living arrangement for the child;

(2) Place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement; and

(3) Finalize the adoption or legal guardianship.

(b) At a minimum, documentation shall include child specific recruitment efforts such as the use of state, regional, and national adoption exchanges including electronic exchange systems.

(c) This applies in the case of a child for whom the permanency plan is adoption or placement in another permanent home;

(4) Print the case plan;

(5) Explain and discuss the case plan with the family to help ensure the family's understanding of case plan goals, actions, roles, responsibilities, and timeframes;

(6) Have all applicable family members sign the completed case plan;

(7) Provide the family and all parties to the case with copies of the signed case plan;

(8) Place the signed case plan in the client record;

(9) File the case plan with the court no later than thirty (30) days after the date the petition was filed, if applicable, or the child was first placed out-of-home, whichever is sooner; and

(10)(A) Using information from the updated FAST or CANS, as applicable, review and update the case plan as necessary during case plan staffings held at a minimum of every three (3) months for both in-home services cases and out-of-home placement cases.

(B) Case plan packet for court-involved cases includes:

(i) Case plan CHRIS case report;

(ii) Completed FAST for in-home cases or completed CANS for out-of-home cases; and

(iii) If a child or children are in Department of Human Services custody:

(a) CFS-6008: Placement Plan CHRIS Case Report (if appropriate);

(b) CFS-6018: Placement History CHRIS Case Report (if appropriate);

(c) CFS-7010: Visits Report CHRIS Case Report (if appropriate);

(d) CFS-6012: Client Medical and Psychological Information CHRIS Case Report (if appropriate);

(e) CFS-6010 Addendum A: Visitation Plan/Visitation Schedule CHRIS Net Template (form for worker to type in info) (if appropriate); and

(f) Completed comprehensive health assessment.

(b) Case plan packet for noncourt-involved case plans:

(1) Case plan CHRIS case report;

(2) Completed Family Advocacy and Support Tool (FAST); and

(3) Any case specific attachments (i.e., grades, provider information, etc.) as appropriate.

(c) The FSW Supervisor will:

(1) Conference with the FSW as necessary throughout the development of and adjustments to the case plan; and

(2) Approve the case plan once it is sufficiently completed by the FSW within:

(A) Thirty (30) days of opening the case (whether in-home services or out-of-home placement) or a child's entering an out-of-home placement; and

(B) Every three (3) months thereafter for in-home services and out-of-home placement cases.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2015"

9 CAR § 40-505. Policy — Case staffings.

(a) A case staffing is a meeting of all involved parties for the purpose of assessing the current status of the child and family strengths and needs and developing or updating the case plan accordingly.

(b) Case staffings will address all appropriate issues relevant to the needs and strengths of the family.

(c) A case staffing may be held for various reasons based on the needs of the child and family.

(d) Situations which require a staffing include but are not limited to:

(1) Developing the initial case plan;

(2) Reviewing progress or making changes in the case plan to include reviewing progress or making changes to the transitional plan for a child fourteen (14) years of age or older in an out-of-home placement;

(3) Reviewing situations where a child has been in three (3) or more out-of-home placements within a twelve-month period;

(4) Addressing challenges that bring a child or family into a state of crisis;

(5) Determining the need for ongoing services and/or supports; and

(6) Reviewing the need for case closure before a case is closed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2015"

9 CAR § 40-506. Procedure — Case staffings.

(a) The Family Service Worker will:

(1) Invite supervisors, parents, or guardian, and if there is court involvement, Court- Appointed Special Advocate (CASA, if applicable), all parties' attorneys, foster parents, caretaker, age-appropriate child, and any other involved party in the case plan;

(2) Inform families of their right to have their attorney present;

(3) Furnish written notice to the child, if of appropriate age (ten (10) years or older);

(4) Furnish written notice of the staffing CFS-590: Invitation to Family-Centered Meeting (complete with date, time, and location to all participants at least two (2) weeks prior to the staffing;

(5)(A) File copies of the CFS-590: Invitation to Family-Centered Meeting in the case record.

(B) Include documentation of the reason, if the child was not able to attend;

(6) Document on the case plan any parent's unwillingness to participate and provide this written documentation to the parent if available;

(7) Conduct the:

(A) Initial staffing within thirty (30) days of opening the case (whether in-home services of out-of-home placement) or a child's entering an out-of-home placement, whichever comes first regarding out-of-home placement cases; and

(B) Subsequent staffings at least every three (3) months for in-home services and out-of- home placement cases;

(8) Complete the original case plan by the initial staffing and update the case plan as needed after subsequent staffings;

(9) Review the case plan for compliance by the participants and update as necessary to reflect:

(A) Progress made;

(B) New factual circumstances; and

(C) New goals;

(10)(A) Conduct a permanency planning staffing at the eleventh month of case opening.

(B) Invite the Adoption Specialist and all other parties involved in the case; and

(11) Conduct a staffing before closing a case to review progress and determine that closure is appropriate.

(b) The FSW Supervisor will:

(1) Conference with the FSW as necessary regarding case plan staffings; and

(2) Attend all case plan staffings if possible.

(c) The Area Director will:

(1) Hold a special case staffing within two (2) weeks of the third move, whenever a child has been in three (3) or more out-of-home placements within a twelve-month period;

(2) Address the reasons for the frequent moves;

(3) Determine what steps shall be taken to prevent future placement disruptions;

(4) Include the:

(A) Family Service Worker;

(B) Supervisor;

(C) Foster parents;

(D) Age-appropriate child; and

(E) Any appropriate service providers and/or life connections for the child; and

(5) Conduct a staffing to review the status of a child placed in long-term, out-of-home care.

(d)(1) Some persons will attend the entire staffing, while others will attend only the portion of the staffing relating to the area in which they are involved.

(2) Confidentiality prevents sharing information with unauthorized individuals.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2015"

Subpart 6. Services to Preserve Families in Their Homes

9 CAR § 40-601. Services to preserve families in their homes.

(a)(1) Services to preserve families and protect children encompass a comprehensive continuum of services designed to address the life needs of the child and the family.

(2) These services include concrete services such as housing, transportation, cash assistance, rental deposit, food, and direct therapeutic intervention both for the family, as a whole, and for individual family members.

(3) The array of services to preserve families and protect children is either direct or purchased services.

(b)(1) Services available to children and families are provided through Title IV-B, subpart II funding under the Promoting Safe and Stable Families Programs.

(2) The child's health and safety will be a priority in the provision of services.

(3) The four (4) categories of services under the Promoting Safe and Stable Families Program are:

(A) Family preservation services;

(B) Family support services;

(C) Time-limited family reunification services; and

(D) Adoption promotion and support services.

(4) Family preservation services means services to children and families designed to help families, including adoptive and extended families, at risk or in crisis.

(c) Family preservation services include:

(1) Service programs designed to help children, where appropriate, return to families from which they have been removed, be placed for adoption, be placed with a legal guardian, and if adoption or legal guardianship is determined not to be safe and appropriate for a child, in some other planned, permanent living arrangement;

(2) Preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain safely with their families;

(3) Service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement;

(4) Respite care of children to provide temporary relief for parents and other caregivers, including foster parents; and

(5) Services designed to improve parenting skills by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills with respect to matters such as child development, family budgeting, coping with stress and health and nutrition.

(d) Family support services are community-based services that promote the well-being of children and families and are designed to:

(1) Increase the strength and stability of families (including adoptive, foster, and extended families);

(2) Increase parents' confidence and competence in their parenting abilities; and

(3) Afford children a stable and supportive family environment, and otherwise to enhance child development.

(e) Services include:

(1) Respite care;

(2) Early developmental screening of children;

(3) Mentoring;

(4) Tutoring;

(5) Health education for youth;

(6) Parenting skills;

(7) Counseling;

(8) Home visiting activities; and

(9) A range of center-based activities.

(f)(1) Time-limited reunification are services and activities that are provided to a child that is removed from the child's home and placed in a foster family home or a childcare institution, and to the parents or primary caregiver of such a child, in order to facilitate the reunification of the child safely and appropriately within a timely fashion, but only during the fifteen-month period that begins on the date the child enters foster care.

(2) Services include:

(A) Counseling;

(B) Substance abuse treatment services;

(C) Mental health services;

(D) Assistance to address domestic abuse;

(E) Temporary child care; and

(F) Transportation to services/activities.

(g) Adoption promotion and support services are services and activities designed to encourage more adoptions out of the foster care system, when adoptions promote the best interest of children, including such activities as preadoptive and postadoptive services and activities designed to expedite the adoption process and support adoptive families.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2005"

9 CAR § 40-602. Services to preserve families in their homes.

The Family Service Worker will:

(1)(A) Go to "Workload", "Case" in CHRIS and complete the automated "Family Strengths and Needs Assessment" found within the "Case Plan", "Assessment", section of CHRIS on the "Family" and "Child" screens within thirty (30) days from the "Open Date" established by the case connection.

(B) This report will be printed from CHRIS and may be the result of several family sessions;

(2) Consider resources for the family within:

(A) The Division of Children and Family Services;

(B) Other Department of Human Services divisions;

(C) State agencies; and

(D) In the community;

(3) Make a referral to another division or community resource, if appropriate;

(4) Open a case in accordance to:

(A) 9 CAR § 40-402, protective/supportive services case opening; and

(B) 9 CAR § 40-403 out-of-home placement services case opening;

(5) Hold staffings, as needed, in accordance with 9 CAR § 40-506, case staffings;

(6) Arrange for other services as needed;

(7) Deliver services as identified in the CFS-6010: Case Plan;

(8) Address the educational needs, including any special needs identified during the strengths and needs assessment, of the children in the home, and attach copies of report cards, etc., as required in the CFS-6010: Case Plan;

(9) Conduct staffing to discuss closure; and

(10) Close noncourt involved case when both the Family Service Worker and the family agree that services are no longer needed or that the needs of the family will best be met by one (1) or more referrals to other service providers.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-603. Policy — Family service worker contacts.

(a) The Division of Children and Family Services shall maintain a level of contact with the family adequate to:

(1) Protect the health and safety of the child;

(2) Protect the child from further child maltreatment; and

(3) Provide family support.

(b) When a report of child maltreatment is true and it is determined that the child shall remain in the home, the appropriate frequency for visits to the child and family shall be no less than weekly in the home during the first month that the case is opened.

(c) If the case is open longer than one (1) month, the worker and his or her supervisor may staff the case to determine if visits may safely be held less frequently than weekly.

(d)(1) Visits to the family in the home, with a face-to-face visit with the child, will be held at least once a month.

(2) Less frequent contact shall be dictated by the needs of the child and family and must have prior approval by the supervisor.

(e) The supervisor must review the health and safety risk assessment before granting a waiver (see Procedure II-D8 and II-D9 [repealed]).

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2005"

9 CAR § 40-604. Procedure — Family service worker contacts.

(a) The Family Service Worker will:

(1)(A) Visit the child and family in the home to address their assessed needs.

(B) If there is a reason why the visit did not occur in the home, document

the reason in the case record.

(C) The FSW is responsible for making weekly face-to-face contacts with the family during the first month that the case is opened.

(D) Visits by other the division staff (e.g., Program Assistant, supervisor) will count as a weekly visit after the case has been opened thirty (30) days.

(E) A face-to-face contact is defined as an in-person contact with the perpetrator, victim, or caretaker (parent, guardian, or other person responsible) for the purpose of observation, conversation, or interviews about substantive case issues.

(F) Risk/needs assessment, treatment planning, case planning and/or progress, are examples of substantive case issues.

(G) A weekly or family visit is completed once contact is made with the victim child and primary caretakers to assess the child's health and safety and case plan progress;

(2)(A) If the case is opened longer than one (1) month, and the supervisor has approved less frequent visits than weekly, visit the family in the home, with a face-to-face visit with the child as frequently as approved, but at least once a month.

(B) High-risk cases must continue to have at least weekly face-to-face contact.

(C) Moderate or low-risk cases must have at least monthly face-to-face contact.

(D) Visits can occur in other locations, however, there must be a once a month visit to the home.

(E) Visits by other division staff will not count as monthly visits;

(3) Engage family members in meaningful activities as dictated by the case plan;

(4)(A) Document weekly visit contacts in the CHRIS client information screen by clicking on services/contacts and selecting new for each new client contact.

(B) Include the proposed visitation schedule in the case record documentation; and

(5)(A) Weekly contacts must be maintained for cases with "High" and

"Intensive" risk levels and for families where the child's or family's situation raises protective concerns and where weekly contact is necessary to monitor the family situation and ensure child safety.

(B) In addition, the worker should maintain weekly visits if the child is experiencing a period of crisis in the home, school, or community and contact with the worker can be of assistance to the child in coping with the crisis.

(b) The Family Service Worker Supervisor will:

(1) Click on the reviewed check box after reviewing the worker's contact; and

(2)(A) Click on the weekly contacts waiver check box and key in the mandatory explanation field to include documentation that the health and safety assessment and risk assessment has been reviewed in order for less than weekly contacts to be approved (see Procedure II-D8 and II-D9 [repealed]).

(B) Under no circumstances can a waiver be granted for less than weekly contacts based on staff shortages without other appropriate justification.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-605. Family Support Fund.

(a) The Division of Children and Family Services will ensure that staff has prompt access to the Family Support Fund to prevent children from entering or remaining in foster care due to the parents' financial inability to:

(1) Meet the children's basic needs; or

(2) Participate in case plan services.

(b) Examples may include short-term assistance with utilities, gas cards, or purchases for the home to help ensure the safety of children (such as a crib to ensure a safe sleep environment for an infant).

(c) All requests will be assessed on a case-by-case basis.

(d) Requests to access the Family Support Fund for families involved in child maltreatment investigations and any type of case services will be made via the assigned Family Service Worker's chain of command.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"03/2024"

9 CAR § 40-606. Child involved in protective services case who is missing.

(a)(1) Occasionally there are instances when a child or youth involved in an open protective services case may run away or otherwise go missing.

(2) In all instances of missing children who are part of an open protective services case, the Division of Children and Family Services will collaborate with the child's family, law enforcement, and the National Center for Missing and Exploited Children (NCMEC) in an effort to locate the child.

(b) **Child who may have been taken without authorization or the family has absconded with the child or children.**

(1) If the family or division has reason to believe the child was taken from his or her parents, caretakers, or both, without authorization by another individual, then upon notification, the family's FSW Caseworker and FSW Caseworker's supervisor will ensure the following individuals are notified of the child's disappearance:

(A) Area Director; and

(B) Assistant Director of Field Operations or designee.

(2) The Assistant Director of Field Operations or designee will then notify the Director of the Division of Children and Family Services.

(3) The FSW Caseworker will also issue a protective services alert if:

(A) The family has left the county of origin and moved with his or her child or children to another county or state;

(B) The new address is unknown; and

(C) The child's health or physical well-being is deemed to be in immediate danger because the family is involved in an open protective services case involving an identified safety threat.

(c) **Child who may have run away.**

(1) If the family, division, or both have reason to believe the child independently left his or her home of his or her own accord (for example, they run away), then upon notification, the family's FSW Caseworker and FSW Caseworker's supervisor will ensure the Area Director is also notified of the child's disappearance.

(2) The FSW Caseworker will then follow the steps outlined below.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2024"

9 CAR § 40-607. When a child is reported missing from a family with an open protective services case.

(a) The following applies to situations in which the child:

(1) Has been taken from his or her parents, caretakers, or both, without authorization; and

(2) Has run away independently from the home.

(b) After receiving notification of the child's disappearance from the child's family or by other means, the FSW Caseworker will:

(1)(A) Notify his or her supervisor and the child's attorney ad litem (if applicable) within two (2) hours.

(B) This notification may occur via:

(i) Email;

(ii) Phone; or

(iii) Text;

(2)(A) Determine within two (2) hours whether the child's parents or caretakers have filed a missing person report with the local police department or sheriff's office.

(B) If the parents, caretakers, or both have filed a missing person report, obtain the missing person report number from the parents or caretakers.

(C) If the parents or caretakers have not yet filed a missing person report, encourage the parents or caretaker to file the report with the local police department or sheriff's department as soon as possible and obtain the missing person report number from the parents or caretakers as soon as possible.

(D) If the parents and caretakers refuse to file a missing person report within one (1) business day, contact the local police department or sheriff's department immediately to file a missing person report and provide the following information where reasonably possible:

(i) Child's name;

(ii) A description of the child's physical features such as:

(a) Height;

(b) Weight;

(c) Sex;

(d) Ethnicity;

(e) Race;

(f) Hair color; and

(g) Eye color;

(iii)*(a)* A photo of the child.

(b) Any published photo or other information published to help locate the child shall not identify the child as being involved with the Division of Children and Family services;

(iv) Child's date of birth;

(v) Circumstances of the missing child's disappearance, including the date the child went missing or was last seen and if the child indicated a destination

(and, if so, what the destination is);

(vi) Any other factual, biographical, or historical information that may assist with locating the missing child;

(vii) Endangerment information such as the child's:

(a) Pregnancy status;

(b) Prescription medications;

(c) Suicidal tendencies;

(d) Vulnerability to being sex trafficked; and

(e) Other health or risk factors; and

(viii)*(a)* A request for law enforcement to enter the information into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation.

(b) If the local police department or sheriff's department will not allow the division to file a missing person report on behalf of the family, document the attempt to file the missing person report in the division's information management system;

(3) Once a police report has been filed, contact the National Center for Missing and Exploited Children (NCMEC) at 1-800-THE-LOST (1-800-843-5678) no later than twenty-four (24) hours after receiving information on missing or abducted children or youth to provide the following information where reasonably possible to NCMEC per the memorandum of understanding (MOU) between the division and NCMEC:

(A) Child's name;

(B) A description of the child's physical features such as:

(i) Height;

(ii) Weight;

(iii) Sex;

(iv) Ethnicity;

(v) Race;

(vi) Hair color; and

(vii) Eye color;

(C)(i) Photo of the child.

(ii) Any published photo or other information published to help locate the child shall not identify the child as being involved with the division;

(D) Child's date of birth;

(E) Name and contact information of the FSW Caseworker and FSW supervisor;

(F) Investigating law enforcement agency name, contact information, and case number (i.e., missing person report number);

(G) Circumstances of the missing child's disappearance, including the date the child went missing or was last seen;

(H) Any other factual, biographical, or historical information that may assist with locating the missing child; and

(I) Endangerment information such as the child's:

(i) Pregnancy status;

(ii) Prescription medications;

(iii) Suicidal tendencies;

(iv) Vulnerability to being sex trafficked; and

(v) Other health or risk factors;

(4) Upon NCMEC's request, release to NCMEC any additional requested information or records in its possession that are relevant to locating the missing child;

(5) Maintain regular communication with law enforcement agencies and NCMEC in efforts to provide a safe recovery of a missing or abducted child, including by sharing information pertaining to the child's recovery and circumstances related to the recovery;

(6) Update contacts in the division's information management system regarding the missing child and efforts to locate the missing child; and

(7) If the child:

(A) Is not found and there are other children in the home:

(i) Continue to provide services to the family and other children as appropriate;

(ii) Continue to call previously contacted parties and inquire for information and furnish further information that becomes available through case closure; and

(iii) If appropriate, extend the search to other counties and states; or

(B) Is not found within sixty (60) calendar days and is the only child in the home:

(i) Update the family's assessment to determine if additional services, such as counseling, may be appropriate for the parents or caretakers; and

(ii) Close the case if the family does not need further services.

(c) After notification of the child's disappearance by the family or by other means, the FSW supervisor will:

(i) Notify the Area Director or designee of the child's disappearance; and

(ii) Conference with the FSW as needed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2024"

9 CAR § 40-608. When a child involved in a protective services case who has been missing is located.

(a) When a child involved in an open protective service case who has been missing is located, the FSW Caseworker will:

(1) Encourage the parents to have the child examined by his or her primary care physician, if possible, within seventy-two (72) hours of locating the child or immediately in the case of a medical emergency;

(2)(A) Notify immediately (but no later than twenty-four (24) hours after the child has been located) all parties and individuals previously notified of the child's

disappearance that the child has been located to include, but not limited to:

(i) FSW Supervisor;

(ii) Area Director;

(iii) Local Office of Chief Counsel attorney;

(iv) Child's attorney ad litem, if applicable;

(v) Law enforcement; and

(vi) NCMEC.

(B) This notification may occur via email, phone, or text as appropriate;

(3) If the case:

(A) Was not closed during the child's absence from the home:

(i) Conduct a visit with the child and the child's family within three (3) business days after the child has been located to determine what immediate needs the child and/or family may have and what immediate steps may need to be taken to better support the child and his or her family;

(ii) Update CHRIS contacts to note the child has been located and when the FSW Caseworker met with the child and his or her family; and

(iii) Determine the primary factors that contributed to the child's running away or otherwise being absent from his or her home to include:

(a) Updating the family's FAST assessment within thirty (30) days of locating the child; and

(b)(1) Determining if the child is a sex trafficking victim or at risk of being a sex trafficking victim based on responses to the updated FAST and any other information gathered.

(2) If there is reason to believe the child is a victim of sex trafficking:

(A) Document accordingly in CHRIS and conference with the FSW supervisor to determine appropriate next steps for additional screening related to sex trafficking victims and/or referral to appropriate services;

(B) Report information on children or youth who have been identified as a sex trafficking victim to local law enforcement immediately, and in

no case later than twenty-four (24) hours after receiving the information; and

(C) Document in CHRIS contacts when local law enforcement is notified of a child being identified as a sex trafficking victim; or

(B) Was closed because the child was the only child involved in the case and absent from the home for more than sixty (60) days and the family did not require further services:

(i) Reopen the case if the child is still under eighteen (18) years of age; and

(ii) Determine the primary factors that contributed to the child's running away or otherwise being absent from his or her home to include:

(a) Updating the family's FAST assessment within thirty (30) days of reopening the case; and

(b) Determining if the child is a sex trafficking victim or at risk of being a sex trafficking victim based on responses to the updated FAST and any other information gathered; and

(4) If there is reason to believe the child is a victim of sex trafficking:

(A) Document accordingly in CHRIS and conference with the FSW supervisor to determine appropriate next steps for additional screening related to sex trafficking victims and/or referral to appropriate services;

(B) Report information on children or youth who have been identified as a sex trafficking victim to local law enforcement immediately, and in no case later than twenty-four (24) hours after receiving the information; and

(C) Document in CHRIS contacts when local law enforcement is notified of a child being identified as a sex trafficking victim.

(b) The FSW Supervisor or Supervisors will:

(1) Conference with the FSW or FSWs as needed; and

(2) Notify the Assistant Director of Field Operations or designee.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "NCMEC" means National Center for Missing and Exploited Children.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2017"

Subpart 7. Services to Reunify Families

9 CAR § 40-701. Out-of-home placement criteria.

(a)(1) The State of Arkansas is not a voluntary placement state.

(2) The removal of a child from his or her home must occur pursuant to a judicial order placing custody of the child with the Department of Human Services.

(3) After the department removes the child or the court grants custody of the child to the department, the child shall be placed in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined at Arkansas Code § 9-28-402.

(b)(1) When a child is in the custody of the department, the Division of Children and Family Services shall ensure that the out-of-home placement is:

(A) In the best interest of the child;

(B) The least restrictive possible;

(C) Matched to the child's physical and therapeutic needs (e.g., caretakers have the skills and training sufficient to meet the child's individual needs); and

(D) Close in proximity to the child's parents and the child's school.

(2) All efforts to place a child within Arkansas shall be thoroughly explored and documented before consideration is given to out-of-state placement.

(c)(1) If the biological parent expresses a preference for placing a child in a home of the same or similar religious background to the biological parents, the Division of Children and Family Services will place the child with a family that meets the genetic

parent's religious background.

(2) If a family with the same or similar religious background is not available, the Division of Children and Family Services will place the child with a family of a different religious background but that is knowledgeable and appreciative of the child's religious background.

(d)(1) When it is in the best interest of each of the children, the department shall attempt to place siblings together while in out-of-home placements.

(2) Siblings include those individuals who would be considered a sibling under state/tribal law if it were not for the disruption in parental rights, such as a termination of parental rights or death of a parent.

(3) When it is in the best interest of each of the children, the department shall attempt to place together infants with minor mothers who are in foster care.

(e)(1) The state shall check all appropriate child abuse and neglect registries for information on any prospective foster or adoptive parent and any household member fourteen (14) years of age and over living in the home before the prospective parent may be finally approved for placement of that child.

(2) This will be done regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child.

(3) The state shall also request any other state in which a prospective parent or any household member fourteen (14) years of age and older has resided in the preceding five (5) years to check any child abuse and neglect registry it maintains for such information.

(4) The state will comply with any request received from another state to check its own child abuse and neglect registry.

(f) In addition, a child in the custody of the department shall not be placed in an approved home of any foster or adoptive parent unless all household members eighteen and one-half (18 1/2) years of age and older, excluding children in foster care, have had a Division of Arkansas State Police criminal record check.

(g) A child in the custody of the department shall also not be placed in an approved home of any foster or adoptive parent unless all household members eighteen

and one-half (18 1/2) years of age and older, excluding children in foster care, have a fingerprint-based Federal Bureau of Investigation criminal background check.

(h)(1) No child shall be placed in the home of a foster parent where a records check reveals a felony conviction for:

(A) Child abuse or neglect;

(B) Spousal abuse or domestic battery;

(C) A crime against children (including child pornography); or

(D) A crime involving violence, including:

(i) Rape;

(ii) Sexual assault; or

(iii) Homicide.

(2) No child shall be placed in the home of a foster parent if the record check reveals a criminal conviction for physical assault, battery, or a drug related offense, if the offense was committed within the past five (5) years.

(3) The placement decision shall be based on an individual assessment of the child's needs.

(i)(1) In all custodial placements by the Division of Children and Family Services, preferential consideration will be given to an adult relative over a nonrelated caregiver if:

(A) The relative caregiver meets all relevant child protection standards; and

(B) It is in the best interest of the child to be placed with the relative caregiver.

(2) All potential out-of-state relative placements will be given the same opportunity as in-state relative placements to choose to become foster homes.

(j) In order to assist in placing the child with an appropriate relative, the court will order the parent or parents to provide the necessary information to the department to locate appropriate relatives:

(1) The names, addresses, and phone numbers of any relatives who may be placement resources for the child;

(2) The names, addresses, and phone numbers and other identifying information on any putative father or fathers of the child;

(3) Any information regarding possible membership or descent from an Indian tribe; and

(4) Information necessary to determine financial eligibility for services or foster care.

(k)(1) If the relative meets all relevant child protection standards and it is in the child's best interest to be placed with the relative caregiver, the FSW shall discuss with the relative the following two (2) options for placement of the child in the relative's home:

(A) The relative becoming a Division of Children and Family Services provisional foster home prior to becoming a regular Division of Children and Family Services foster home (if the relative opts to have his or her home opened as a provisional foster home, the relative shall not be paid a board payment until the relative is opened as a regular foster home); or

(B) The relative obtaining legal custody of the child.

(2) For more information on these placement options, refer to 9 CAR § 40-708, consideration of relatives and fictive kin for children in foster care.

(l)(1) Fictive kin to the child may be an appropriate placement option for a child provided the individual meets all relevant child protection standards and it is in the child's best interest to be placed with fictive kin.

(2) Fictive kin are defined as persons not related by blood or marriage but who have a strong, positive emotional tie to the child, and have a positive role in the child's life such as:

(A) Godparents;

(B) Neighbors; or

(C) Family friends.

(3) If appropriate fictive kin are identified as a placement option for a child, the FSW shall discuss with the fictive kin the following two (2) options for placement of the child in the fictive kin's home:

(A) The fictive kin becoming a Division of Children and Family Services provisional foster home prior to becoming a regular Division of Children and Family Services foster home (if the fictive kin opts to have his or her home opened as a provisional foster home, the fictive kin shall not be paid a board payment until the fictive kin is opened as a regular foster home); or

(B) The fictive kin obtaining legal custody of the child.

(m) The child shall remain in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined at Arkansas Code § 9-28-402(12), until:

(1) The relative or fictive kin's home is opened as a provisional foster home or regular foster home; or

(2) The court grants custody of the child to the relative or fictive kin after a written approved home study is presented to the court.

(n) Placement or custody of a child in the home of a relative or other person shall not relieve the department of its responsibility to actively implement the goal of the case.

(o)(1) The court may order a child to remain in a placement if the court finds the placement is in the best interest of the child (with the exception that the court shall not order a child to remain in a placement in a foster home that has been closed or suspended by a child placement agency) after hearing evidence from all parties.

(2) The court shall not specify a particular provider for placement or family services, when the department is the payer or provider.

(3) However, the court may order a child to be placed into a licensed approved placement (i.e., no child shall be placed in a foster home that has been closed or suspended by a child placement agency) after a hearing where the court makes a finding that it is in the best interest of the child based on bona fide consideration of evidence and recommendations from all the parties.

(p)(1) If the court orders a child to be placed into a licensed approved placement as outlined above, a Title IV-eligible child may still remain Title IV-E-claimable.

(2) However, if the court orders a child into a specific placement and it is

determined that the court did not make a finding based on bona fide consideration of evidence and recommendations from all parties a Title IV-eligible child's Title IV-E claimability may be affected.

(q)(1) If the health or welfare of a child is in immediate danger while in a court-ordered placement, the Division of Children and Family Services may immediately remove the child from the court-ordered placement.

(2) If the Division of Children and Family Services must move a child from a court-ordered placement due to the health or welfare of a child being in immediate danger, the Division of Children and Family Service shall notify all parties within twenty-four (24) hours of the change in placement.

(3) Regarding this type of placement change, a hearing may be requested by a party to the case, and the hearing shall be held within five (5) business days of receiving the request.

(r)(1) In all cases in which family services are ordered, the court shall determine the parent's, guardian's, or custodian's ability to pay, in whole or in part, for these services.

(2) This determination and the evidence supporting it shall be made in writing in the court order ordering family services.

(3) If the court determines that the parent, guardian, or custodian is able to pay, in whole or part, for the services, the court shall enter a written order setting forth the amounts the parent, guardian, or custodian can pay for the family services ordered and ordering the parent, guardian, or custodian to pay the amount periodically to the provider from whom family services are received.

(4) If a child is committed to a youth services center or detained in a juvenile detention facility and is covered by private health insurance, the court may order the parent or guardian to provide information on the health insurance coverage (including a copy of the health insurance policy and pharmacy card when available) to the detention or youth services center.

(s)(1) A child of a parent who is in department custody, is also considered a dependent juvenile and is:

(A) Eligible to receive foster care maintenance payments; and

(B) Deemed to be a recipient of aid to families with dependent children.

(2) Titles XIX and XX services will be available to the child in the state in which the child resides.

(t)(1) Children who are in the custody of the department shall be allowed trial home placements with parents, for a period not to exceed sixty (60) days, except as approved by the department, and in any event not to exceed six (6) months.

(2) This includes trial home placements with the juvenile's parent or parents from whom custody was removed (or other person from whom custody was removed).

(3) The department values child safety and will not place any child in trial home placement unless safety factors have been mitigated and sixty (60) days is the intended maximum trial home placement.

(4) Use of trial home placement for a period exceeding sixty (60) days will be reserved for extenuating circumstances.

(5) At the end of the sixty (60) days, unless an extension is requested by the department for good cause, the court shall either place custody of the child with the parent, or the department shall return the child to:

(A) A licensed or approved:

(i) Foster home;

(ii) Shelter; or

(iii) Facility; or

(B) An exempt child welfare agency as defined in Arkansas Code § 9-28-402.

(u) When a child leaves the custody of the department and the court grants custody to the parent or another person, the department is no longer the legal custodian of the child, even if the juvenile division of circuit court retains jurisdiction.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of

Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-702. Initial out-of-home placement determination.

The Family Service Worker (FSW) will:

(1) Contact the Office of Chief Counsel attorney immediately if there is any indication that the child is a member of an Indian tribe;

(2)(A) Consider placement with appropriate relatives and/or fictive kin.

(B)(i) The child is in the custody of the Division of Children and Family Services, therefore, the child shall remain in an approved foster home or licensed shelter or facility until a relative or fictive kin's home is opened as a provisional home.

(ii)*(a)* If the worker makes the removal and potential relative and/or fictive kin placements for foster care are identified, notify the area Resource Worker Supervisor by email within twenty-four (24) hours of removal that children have been removed and a potential provisional placement has been identified.

(b) In the notification email provide the area Resource Worker Supervisor with:

(1) Names and ages of the children who have been removed;

(2) Name or names of potential provisional placement;

(3) Relationship of potential provisional placement to children;

(4) Contact information for potential provisional placement; and

(5) Any other information collected regarding potential provisional placement (see CFS-450: Prospective Provisional Foster Parent Information and Questionnaire for more information).

(iii) Assist with completion of a prospective provisional foster parent information and questionnaire as appropriate to the specific case and/or local county

procedures.

(iv) Refer to 9 CAR § 40-708, consideration of relatives and fictive kind for children in foster care and related procedures for more information;

(3)(A) Consider appropriate relatives and/or fictive kin who are interested in obtaining legal custody of the juvenile if identified relatives and/or fictive kin are not interested in becoming a provisional foster home.

(B) If potential relatives and/or fictive kin are identified as potential temporary custody relative placements, refer to 9 CAR § 40-708, consideration of relatives and fictive kin for children in foster care and related procedures for more information;

(4) If identified relatives and/or fictive kin are not interested in becoming provisional foster parents or obtaining legal custody of the child, talk with them about otherwise maintaining contact with the child (e.g., visits, transporting);

(5) If there are no viable placements with appropriate relatives or fictive kin at the time placement is needed, select an available foster home or other out-of-home placement that will serve the child's best interest (see 9 CAR § 40-401 et seq., Services Case Opening and Related Procedures for Information Regarding Opening an Out-of-home Services Placement Case); and

(6) Continue to discuss with and/or support appropriate relatives' and/or appropriate fictive kin's interest in maintaining connections with the child and/or becoming a Division of Children and Family Services foster home throughout the life of the case if such actions are in the child's best interests.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2014"

9 CAR § 40-703. Out-of-home placement of underaged juvenile offender, juvenile offender, or sexual offender.

(a)(1) If the child being placed has been identified as an exempted-from-finding underaged juvenile offender, or a juvenile offender, or a sexual offender, the child must not be placed in a home with other children, unless the child's therapist and the Division of Children and Family Services determine that the child is no longer a danger to other children.

(2) Proper documentation of this will be contained in the child's hard copy file and documented in the recommended placement screen.

(b) Any child being placed who is an adolescent or child sexual offender and has been assessed and designated as a risk Level 3 or Level 4, and is required to register as a sex offender under the Sex Offender Registration Act of 1997, Arkansas Code § 12-12-901 et seq., must not:

(1) Be placed in any out-of-home placement that is within two thousand feet (2,000') of the victim's residence;

(2) Be allowed to have any direct or indirect contact with the intention to harass the victim; and

(3) Be placed in any out-of-home placement that is within two thousand feet (2,000') of any public or private:

(A) Elementary or secondary school;

(B) Public park;

(C) Youth center; or

(D) Childcare facility.

(c) Document in CHRIS that a child who is a Level III or IV registered sex offender and must not be placed in any out-of-home placement that is within two thousand feet (2,000') of the victim's home or any public or private:

(1) Elementary or secondary school;

(2) Public park;

(3) Youth center; or

(4) Childcare facility.

(d) Provide local law enforcement or other appropriate law enforcement agency, with all applicable and appropriate information that is required by law within five (5) business days after the person establishes residency.

(e) Document that law enforcement has been notified of this placement and all subsequent placements.

(f) If recommended placement is a facility, facility must be notified about any under-aged juvenile offender, juvenile offender, or sexual offender status and documented in the placement recommendation screen.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2011"

9 CAR § 40-704. Placement of infants born to incarcerated mothers.

(a)(1) The Division of Children and Family Services will accept referrals from the Department of Corrections social worker seeking to find appropriate placements for infants born to incarcerated mothers.

(2) If the infant has a legal father, the division will not take any action unless the legal father refuses to assume responsibility for the child.

(3) The Department of Corrections social worker will refer the case to the division if the female inmate is unable to identify anyone who meets specific Department of Corrections guidelines for the assumption of care for the infant.

(b) After referral by the Department of Corrections social worker, the division Family Service Worker (FSW) will:

(1)(A) Visit with the mother and discuss possible placements for the child.

(B) Options include:

(i) Placement with a family member or a nonfamily member; or

(ii) Custody placed with the Department of Human Services.

(C) If the mother wants to place the infant with a relative or fictive kin, the FSW will discuss whether the mother wants:

(i) Custody placed with the Department of Human Services, with the relative or fictive kin opened as a provisional foster home; or

(ii) Full custody given to the relative or fictive kin.

(D) If the mother wants to place the infant with a nonfamily member, the FSW will discuss whether she wants:

(i) Custody placed with the Department of Human Services, with the family opened as a regular foster home; or

(ii) Full custody given to the nonfamily member;

(2)(A) Inform the mother of applicable minimum licensing requirements and the division policy if a provisional or regular foster placement with a family or a regular foster placement with a nonfamily member with custody placed with the Department of Human Services is being considered.

(B) Any foster or adoptive placement with a family or nonfamily member, wherein the Department of Human Services is the custodian, must meet the same child welfare licensing requirements as a regular foster home prior to the child being placed in the home as defined at Arkansas Code § 9-28-402;

(3) Inform the mother that a home study must be completed on any family or nonfamily member who is being considered to take full custody of the infant;

(4) When applicable, begin the process for opening any identified family member as a provisional foster home or any identified nonfamily member as a regular division foster home (see 9 CAR § 40-708, consideration of relatives and fictive kin for children in foster care and 9 CAR § 40-801 et seq., Development of Resources Homes and Support of Resource Parents, for more information);

(5)(A) When applicable, conduct a home study on the requested placements where consideration for custody is with a family or nonfamily member, but not with the Department of Human Services.

(B) If the home study is unfavorable, work with the mother to identify

other possible placements, or petition for custody of the child upon birth.

(C) If the home study is favorable, when the child is born, petition the court for custody to be given to the relative or other person identified by the mother;

(6)(A) Petition the court for custody to be given to the Department of Human Services for placement when the child is born.

(B) The court will assess each case individually and will have a range of options for disposition:

(i) Place the child in the identified provisional foster home or regular foster home;

(ii) Place permanent custody with a relative or other person and close the case with no Department of Human Services involvement;

(iii) Grant guardianship to a relative or other person and close the case with no Department of Human Services involvement; and

(iv) Grant custody to Department of Human Services and recommend immediate termination of parental rights.

(C) If termination of parental rights is granted, the Family Service Worker will follow 9 CAR § 40-910, termination of parental rights;

(7) If applicable, follow the division policy for case opening, placement, and provision of services to the child; and

(8) Contact the Department of Corrections social worker to arrange visitation between the child placed in an out-of-home setting and the incarcerated mother as stated in 9 CAR § 40-712, maintaining family ties in out-of-home placements, unless such visitation is prohibited by the court, physician, the division, etc.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-705. Out-of-home placement by sheriff or police chief in emergency situations.

In an emergency situation, a sheriff or police chief may place children in the Division of Children and Family Services foster homes only when the following criteria have been met:

(1) The sheriff or chief of police contacts the area or county designated on-call worker and does not get a return phone call within thirty (30) minutes;

(2) Subsequent to not receiving a phone call in the above situation, the sheriff or chief of police contacts the division emergency contact line and does not get a return phone call within fifteen (15) minutes;

(3) The foster parent is personally well-known to the sheriff or the chief of police and the sheriff or chief of police has:

(A) Determined that the foster parent's home is safe and provides adequate accommodations for the child; and

(B) Performed a criminal record and child maltreatment check on the foster parent; and

(4) The sheriff or chief of police will on the next business day notify the division of the time and date that the child was placed in the foster parent's home.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2011"

9 CAR § 40-706. Out-of-home placement support.

The Family Service Worker (FSW) will:

(1)(A) If an initial clothing order is needed, discuss with the resource parent to

determine which clothing items are needed, and issue the authorized amount of clothing allowance using the DHS-1914 or P-card process.

(B) Accompany the resource parent to the store to approve the purchase;

(2) Complete all actions identified in 9 CAR § 40-401, general services case opening and reevaluations;

(3) Complete the IV-E and Medicaid application as prescribed in 9 CAR § 40-403;

(4)(A) Complete all medical exam requirements for the child including the comprehensive health assessment.

(B) See 9 CAR § 40-717, initial health screening for children receiving out-of-home placement services;

(5) Complete all case opening functions as outlined in 9 CAR § 40-503, services case plan, and 9 CAR § 40-505, case staffing; and

(6) Visit the child as required in 9 CAR § 40-816, Division of Children and Family Services contact with children in out-of-home placements.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-707. Concurrent planning.

(a)(1) The Division of Children and Family Services will ensure timely permanency for children entering out-of-home placement.

(2) Concurrent planning includes working towards the goal of returning the child to the parents while concurrently working on alternative permanent placements.

(3) Concurrent planning will be done for all out-of-home placement cases except for those cases where the court determines no reasonable efforts to provide

reunification services.

(4) The level and degree of concurrent planning will be on a case-by-case basis.

(5) The division worker will immediately develop and implement a realistic concurrent plan.

(b) The Family Service Worker will:

(1) Inform the family of the concurrent planning process;

(2) Emphasize the importance of family involvement and partnerships in establishing permanency for children in out-of-home placements;

(3)(A) Request parental input in identifying relatives and significant others who may be appropriate caregivers and initiate contact and home studies.

(B) The family will be required by court order to provide information identifying other relatives;

(4)(A) Use the identified contact information to locate and contact named relatives to assist in the child's placement as prescribed in 9 CAR § 40-701.

(B) Information on the putative father or any absent parent should be obtained and submitted on the CFS-408: Federal Parent Locator System Information to the local Office of Chief Counsel attorney.

(C) Lexis Nexis may be used if appropriate.

(D) In considering placements, foster parents should be viewed as a resource;

(5) Initiate the completion of the life story book for all children in out-of-home care;

(6)(A) Complete the initial CFS-6010: Case Plan within thirty (30) days and document all concurrent planning activities in the appropriate section of the case plan (see 9 CAR § 40-506).

(B) The CFS-6010: Case Plan should document tasks that support reunification as well as permanency activities;

(7) Complete the CFS-456: Birth Family Background Information within sixty (60) days of case opening;

(8)(A) At the second staffing (ninety (90) days), invite the Adoption Specialist if the court determines reunification services are not required, or the division is recommending termination of parental rights.

(B) The CFS-6010: Case Plan developed from this staffing should assign tasks and responsibilities to the FSW and Adoption Specialist; and

(9)(A) Invite the Adoption Specialist to participate in the sixth month, ninth month, and eleventh month staffing if it appears likely that the child will not return home or if the goal for the child is adoption.

(B) The CFS-6010: Case Plan will assign tasks and responsibilities to the Family Service Worker and Adoption Specialist.

(c)(1) The Adoption Specialist will participate in the sixth month, ninth month, and eleventh month staffing if it appears likely that the child will not return home or if the goal for the child is adoption.

(2) The CFS-6010: Case Plan will assign tasks and responsibilities to the Family Service Worker and Adoption Specialist.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-708. Consideration of relatives and fictive kin for children in foster care.

(a)(1) The Division of Children and Family Services believes that safe and appropriate relatives and fictive kin are the best placements for children who must be removed from their homes to ensure safety.

(2) Research confirms that children in foster care fare much better when placed with relatives and fictive kin than in traditional foster homes or other placement settings.

(3) Placement with relatives and fictive kin helps to minimize trauma, improve well-being, and increase permanency for children in foster care.

(4) The division will strive to ensure that a child's first placement is with a relative or fictive kin if at all possible.

(b)(1) "Relative" means a person within the fifth degree of kinship to the child or at least one (1) of the children in a sibling group, including step-siblings and half-siblings, by virtue of blood or adoption.

(2) In all custodial placements by the Department of Human Services in foster care or adoption, preferential consideration shall be given to an adult relative over a nonrelated caregiver if:

(A) The relative caregiver meets all relevant child protection standards; and

(B) It is in the best interest of the child to be placed with the relative caregiver.

(c)(1) When considering placement options for a child in foster care, relative includes noncustodial parents as parents are presumed to be the most appropriate caregiver for a child unless evidence to the contrary is presented.

(2) When a child enters foster care, the department will immediately evaluate the appropriateness of noncustodial parents for trial home placement of their child.

(3) When a noncustodial parent is not an immediate placement option, the department will seek other relatives as potential caregivers in an effort to preserve the bond between the child and family.

(4) The department will discuss with a relative (who is not the noncustodial parent) the following two (2) options for placement of the juvenile in the relative's home:

(A) The relative becoming a department provisional foster home prior to becoming a regular foster home; or

(B) The relative obtaining legal custody of the juvenile.

(d) Per Arkansas Code § 9-27-354, placement or custody of a juvenile in the home of a relative shall not relieve the department of its responsibility to actively implement the goal of the case.

(e)(1) "Fictive kin" means a person not related to a child by blood or marriage, but who has a strong, positive, emotional tie to a child and has a positive role in a child's life.

(2) If there are no available and/or appropriate relatives within the fifth degree of kinship to the child, then the division will attempt to identify appropriate fictive kin, to include people beyond the fifth degree of kinship by virtue of blood or adoption, as a placement option for the child.

(3) If the fictive kin meet all relevant child protection standards and it is in the best interest of the child to be placed with the fictive kin, the department shall discuss with the fictive kin the following two (2) options for placement of the juvenile in the relative's home:

(A) The fictive kin becoming a department provisional foster home prior to becoming a regular foster home; or

(B) The fictive kin obtaining legal custody of the juvenile.

(f) The juvenile shall remain in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency until:

(1) A trial home visit placement occurs with a noncustodial parent;

(2) A relative or fictive kin's home is opened as a provisional or regular foster home; or

(3) The court grants custody of the juvenile to the relative or fictive kin after a written approved home study is presented to the court.

(g)(1) If the relative or fictive kin chooses to obtain legal custody of the juvenile, a protective services case must be opened on the child and a case plan developed to establish permanency for the child.

(2) The Division of Children and Family Services must provide services similar to the services that would have been provided if the child was placed in foster care, and the case plan must address these services.

(3) For example, the child's health, education, and/or counseling needs should be addressed in the case plan.

(4) Relatives and fictive kin have the option of obtaining permanent custody or guardianship if all efforts toward reunification are exhausted and/or to achieve case plan goals for permanency.

(5) If the court grants permanent custody, or guardianship is granted, the

protective services case will be closed.

(h) If termination of parental rights (TPR) is an option for the case, the relative or fictive kin is eligible to adopt the child and can receive services identified in 9 CAR § 40-930, adoption subsidy and related procedures, if the child is eligible.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-709. Trial home visit with noncustodial parents.

(a) The Family Service Worker will:

(1) Immediately ask the child, child's parent or parents or legal guardian or guardians from whom custody was removed, and any available relatives or fictive kin to provide information on a noncustodial parent or parents to include, as available:

(A) The names, addresses, last known address, last known place of employment, and phone numbers of the noncustodial parent or parents;

(B) The names, addresses, phone numbers, and other identifying information of any relative or collateral who could assist in location of the noncustodial parent or parents; and

(C) Information pertaining to stability of the noncustodial parent or parents such as:

(i) History of and any current substance misuse issues;

(ii) History of and any current domestic violence issues;

(iii) History of and any current mental or behavioral health issues; and

(iv) Current and/or previous restraining orders and/or protection orders with child or immediate family members;

(2)(A) Collaborate with the Resource Worker to assess appropriateness of the noncustodial parent.

(B) For initial, immediate placement the following must be conducted and considered:

(i) Verification that the individual is the noncustodial parent;

(ii) An expedited Child Maltreatment Central Registry Check (via CFS-316: Request for Arkansas Child Maltreatment Central Registry Check);

(iii) An expedited State Police criminal record check (via CFS-342: State Police Criminal Record Check);

(iv) A vehicle safety program check (i.e., driving points);

(v) A Lexis Nexis search;

(vi) A Court Connect search for applicable counties; and

(vii) A visual inspection of the home guided by the noncustodial parent information questionnaire and also to include:

(a) Follow up on immediate concerns identified by child or collaterals during the removal;

(b) Review of information gathered during the visual inspection of the home;

(c) Assessment of how other children and/or adults in the home may affect the child being considered for placement; and

(d) Assessment of how the child being considered for placement may impact the household members.

(C) The following must also be submitted within two (2) weeks of placement (results do not have to be received in order to place with the noncustodial parent if there are no other health or safety concerns):

(i) Federal Bureau of Investigation (nonstate) criminal record check if the noncustodial parent has lived or worked (if different) in another state in the last five (5) years; and

(ii) Request for Child Maltreatment Central Registry check from any state in which the noncustodial parent has lived or worked (if different) for the past five

(5) years;

(3) If placement with the noncustodial parent appears viable, interview the child, if age appropriate, to assess how the child may feel about placement with the noncustodial parent and make individualized placements on a case-by-case basis in the best interest of the child;

(4) If placement is viable:

(A) Contact the Office of Chief Counsel attorney immediately if child is being moved from one (1) out-of-home placement to another and provide notice of the placement change to all other parties to the case as required by law and outlined in 9 CAR § 40-827, changes in out-of-home placement and related procedures, if that placement was not considered to be a temporary placement (see 9 CAR § 40-102, definitions);

(B) Provide the child's parent or parents with PUB-11: What Happens When Your Child and Family Are Involved with DCFS?;

(C) Provide the noncustodial parent with PUB-15: A Relative's Guide to the Arkansas Child Welfare System; and

(D) Place the child in the noncustodial parent's home and:

(i) Ensure the noncustodial parent acknowledges they will not allow the alleged perpetrator access to the child that is not supervised by the Division of Children and Family Services until the investigation is complete and will not allow any contact with the alleged offender that is not approved or authorized by the division or the court after the investigation is completed (if found true);

(ii) Document placement selection on the case plan by keying the "Plan Goals" and the "Needs/Svc" screens in the "Treatment" portion of the "Case Plan" section of CHRIS; and

(iii) Assist the noncustodial parent in applying for benefits if appropriate, such as benefits under the Temporary Employment Assistance (TEA) Program or the Supplemental Nutrition Assistance Program (SNAP);

(5) Keep the Resource Worker informed of any changes to the child's need for a placement with the noncustodial parent and any other relevant information; and

(6) Hold staffings, as needed, in accordance with 9 CAR § 40-506, case staffings, and update the Child and Adolescent Needs and Strengths (CANS) assessment and case plan.

(b) The Resource Worker will:

(1) Process all necessary background checks by (see Procedure VII-C1: Background Check Processing for more information):

(A) Conducting an expedited Child Maltreatment Central Registry Check (via CFS-316: Request for Arkansas Child Maltreatment Central Registry Check);

(B) Conducting an expedited State Police criminal record check (via CFS-342: State Police Criminal Record Check);

(C) Submitting a vehicle safety program (DMV) check (driving record points will be computed in the division Central Office, and the results, including qualification or disqualification, will be forwarded to the Resource Worker for inclusion in the noncustodial parent's file);

(D) Submitting a nonstate criminal record check if the noncustodial parent has lived or worked (if different) in another state in the last five (5) years; and

(E) Submitting requests for Child Maltreatment Central Registry check from any state in which the noncustodial parent has lived or worked (if different) for the past five (5) years;

(2) Conduct a visual inspection of the noncustodial parent's home as guided by the noncustodial parent information and questionnaire; and

(3) Keep the child's FSW informed of progress and/or any challenges associated with processing of the background checks.

(c) The FSW and Resource Supervisors will:

(1) Conference with and support the FSW and Resource Worker as necessary; and

(2) Review and approve placement with noncustodial parent.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-710. Provisional foster home placement for children in foster care.

(a) The Family Service Worker will:

(1) Ask the child's parent or parents or legal guardian or guardians from whom custody was removed to provide information on appropriate relatives and fictive kin to include, as available (if not already provided at time of removal):

(A) The names, addresses, and phone numbers of any relatives or fictive kin who may serve as appropriate placement resources for the child; and

(B) The names, addresses, phone numbers, and other identifying information of any putative father or fathers of the child;

(2) Assist with completion of CFS-450: Prospective Provisional Foster Parent Information and Questionnaire as appropriate to the specific case and/or local county procedures;

(3) Keep the Resource Worker informed of any changes to the child's need for a provisional placement and any other relevant information;

(4) Ensure that the Resource Worker conducts a review of the prospective provisional home to include:

(A) An expedited Child Maltreatment Central Registry Check (via CFS-316: Request for Arkansas Child Maltreatment Central Registry Check);

(B) An expedited State Police criminal record check (via CFS-342: State Police Criminal Record Check);

(C) A vehicle safety check;

(D) Submission of the Federal Bureau of Investigation (nonstate) criminal record check (results do not have to be received in order to open the provisional foster home, but results must be received and clear within six (6) months in order to make a

determination as to whether to approve as a regular Division of Children and Family Services foster home); and

(E) A visual inspection of the home (via CFS-446: In Home Consultation Visit Report);

(5) If the provisional foster home placement appears viable, interview the child, if age appropriate, to assess how the child may feel about placement with the relative and make individualized placements on a case-by-case basis in the best interest of the child;

(6) Collaborate with the Resource Worker to evaluate:

(A) How the other children and adults in the home will affect the successful development of a child in foster care; and

(B) How the child in foster care will impact the other members of the home;

(7) If, after the Resource Worker has completed all necessary steps to open the family as a provisional home (see below for more information), it is determined that placement with the family is in the best interest of the child:

(A) Arrange at least one (1) preplacement visit for the child if it is not the child's initial placement;

(B) Contact the Office of Chief Counsel attorney immediately if child is being moved from one (1) out-of-home placement to another and provide notice of the placement change to all other parties to the case as required by law and as outlined in 9 CAR § 40-827, changes in out-of-home placement and related procedures, if that placement was not considered to be a temporary placement (see 9 CAR § 40-102, definitions);

(C) Provide the child's parent or parents with PUB-11: What Happens When Your Child and Family Are Involved with DCFS?;

(D) Provide the prospective provisional foster family with PUB-15: A Relative's Guide to the Arkansas Child Welfare System; and

(E) Place the child in the provisional home and:

(i) When a child is placed in a provisional foster home for a seventy-

two-hour hold, ensure that the provisional foster parents acknowledge they:

(a) Will not allow the alleged perpetrator access to the child that is not supervised by the Division of Children and Family Services until the investigation is complete; and

(b) Will not allow any contact with the alleged offender that is not approved or authorized by the Division of Children and Family Services or the court after the investigation is completed (if found true);

(ii) Ensure that the provisional foster parents understand that they must work with their Resource Worker to complete any corrective actions necessary to bring the home into compliance with Minimum Licensing Standards and Division of Children and Family Services policy within six (6) months;

(iii) Document placement selection on the case plan by keying the "Plan Goals" and the "Needs/Svc" screens in the "Treatment" portion of the "Case Plan" section of CHRIS;

(iv)*(a)* Assist the provisional foster parents in applying for benefits if appropriate.

(b) Until the provisional foster home is opened as a regular foster home, the relative/fictive kin may apply for and receive benefits for which the provisional foster parents may be entitled due to the placement of the child in the home, such as benefits under the Temporary Employment Assistance (TEA) program or the Supplemental Nutrition Assistance Program (SNAP);

(v) Assess the situation with the Resource Worker and Supervisor or Supervisors if the family does not come into compliance within six (6) months of the placement of the child in the home and recommend to Office of Chief Counsel on how the case should proceed (i.e., remain in foster care or have a completed approved home study and recommend custody to the relative);

(vi) Collaborate with the Resource Worker to ensure that the relative or relatives are completing the process for foster home approval; and

(vii) If the relative's home is not fully licensed as a foster home within six (6) months of the placement of the child in the home:

(a) The department shall remove the child from the relative's home and close the relative's provisional foster home and place child in an approved or licensed placement; or

(b) The court shall remove custody from the department and grant custody of the child to the relative;

(8) Complete the permanency planning hearing court report and submit to the FSW Supervisor for review and approval;

(9) If approved by the FSW Supervisor, submit the permanency planning hearing court report to the Office of Chief Counsel attorney, CASA, and all other required parties within fourteen (14) days prior to any permanency planning hearing scheduled for the case;

(10) Hold staffings, as needed, in accordance with 9 CAR § 40-506, case staffings, and update the Child and Adolescent Needs and Strengths (CANS) assessment and case plan;

(11) Invite the Adoption Specialist to the staffing when appropriate; and

(12) Conduct a staffing to discuss closure when appropriate.

(b) The Resource Worker will:

(1) Assist with completion of CFS-450: Prospective Provisional Foster Parent Information and Questionnaire as appropriate to specific case and/or local county procedures;

(2) Process all necessary background checks by (see Procedure VII-C1: Background Check Processing for more information):

(A) Conducting an expedited Child Maltreatment Central Registry check (via CFS-316: Request for Arkansas Child Maltreatment Central Registry Check);

(B) Conducting an expedited Division of Arkansas State Police criminal record check (via CFS-342: State Police Criminal Record Check);

(C)(i) Conducting a vehicle safety program (DMV) check (driving record points will be computed in the Division of Children and Family Services Central Office, and the results, including qualification or disqualification, will be forwarded to the Resource Worker for inclusion in the applicant file.

(ii) See Procedure VII-C1 for forms which must be completed); and

(D) Submitting the Federal Bureau of Investigation criminal record check (Federal Bureau of Investigation results do not have to be received in order to open the provisional foster home, but results must be received and clear within six (6) months in order to approve as a regular Division of Children and Family Services foster home);

(3)(A) Complete a visual inspection of the home (via CFS-446: In Home Consultation Visit Report).

(B) See Procedure VII-C2: In Home Consultation Visit for more information;

(4) Based on the results of the background checks listed above and the visual inspection of the home, begin the process for requesting any necessary alternative compliance or the Division of Children and Family Services policy waivers, if applicable;

(5) Explain to the relative/fictive kin that, if opened as a provisional foster home, they will not receive a board payment until they are opened as a fully approved Division of Children and Family Services foster home which must occur within six (6) months of being opened as a provisional foster home;

(6) Explain to the relative/fictive kin other processes related to becoming a provisional and, ultimately, a regular Division of Children and Family Services foster home (see 9 CAR § 40-801 et seq., Development of Resource Homes and Support to Resource Parents, and related procedures);

(7) Keep the child's FSW informed of progress and/or any challenges to opening the relative as a provisional foster home;

(8) Collaborate with the child's FSW to evaluate:

(A) How the other children and adults in the home will affect the successful development of a child in foster care; and

(B) How the child in foster care will impact the other members of the home;

(9) If the relative/fictive kin and relative/fictive kin's home are appropriate to open as a provisional foster home, complete CFS-452: Provisional Foster Home Verification and CFS-474: Provisional Foster Home Checklist with the family and file in

the provider record;

(10)(A) Enter a relative into CHRIS as a provider opening two (2) placement services:

(i) Provisional (relative) placement (no board) service; and

(ii) Foster family home service.

(B) The provisional (relative) placement (no board) service must be quickly approved (once the necessary requirements are received), while the foster family home service has applicant status awaiting compliance (all required checks, certifications, and training) for approval.

(C) In CHRIS, the relative will have only one (1) provider number showing two (2) services provided by the family;

(11)(A) Enter fictive kin into CHRIS as a provider opening two (2) placement services:

(i) Provisional (fictive kin) placement (no board) service; and

(ii) Foster family home service.

(B) The provisional (fictive kin) placement (no board) service must be quickly approved (once the necessary requirements are received), while the foster family home service has applicant status awaiting compliance (all required checks, certifications, and training) for approval.

(C) In CHRIS, the fictive kin will have only one (1) provider number showing two (2) services provided by the family.

(D) Provisional (fictive kin) will mirror the same board rates as provisional (relative) which carries the payment scale status of "None.";

(12) Request any necessary policy waivers and/or alternative compliances to waive nonsafety standards for the relative/fictive kin prior to referring to training;

(13) Refer to 9 CAR § 40-801 et seq., Development of Resource Homes and Support to Resource Parents, to continue with the process of opening the provisional foster home as a regular Division of Children and Family Services foster home;

(14) Support the relative/fictive kin throughout the process of becoming a provisional and regular Division of Children and Family Services foster home; and

(15) Assess the situation with the FSW and supervisors if the relative does not come into compliance within six (6) months of the placement of the child in the home.

(c) The FSW Supervisor will:

(1) Conference with and support the FSW on the case as necessary; and

(2) Review and approve the permanency planning hearing court report.

(d) The Resource Worker Supervisor will:

(1) Upon receipt of a notification email from a worker who has removed children and identified a prospective provisional placement (see this section for more information), be responsible for ensuring completion of CFS-450: Prospective Provisional Foster Parent Information and Questionnaire within forty-eight (48) hours of receipt of notification; and

(2) Conference with and support the Resource Worker as necessary regarding opening the provisional foster home.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-711. Relative and fictive kin custody for children in foster care.

(a) The Family Service Worker will:

(1) Ask the parent or parents or legal guardian or guardians from whom custody was removed to provide information on appropriate relatives to include, as available (if not already provided):

(A) The names, addresses, and phone numbers of any relatives who may be placement resources for the child; and

(B) The names, addresses, phone numbers, and other identifying

information on any putative father or fathers of the child;

(2) If appropriate relatives cannot be identified or are otherwise not able to serve as a placement resource, ask the parent or parents or legal guardian or guardians from whom custody was removed to provide information on appropriate fictive kin to include, as available (if not already provided), the names, addresses, and phone numbers of any fictive kin who may be placement resources for the child;

(3) Interview the child, if age appropriate, to assess how the child may feel about placement with a specific relative or fictive kin;

(4) Complete the home study, to include Child Maltreatment Central Registry checks, Division of Arkansas State Police criminal background checks, and vehicle safety (DMV) program checks on all applicable household members, on the relative or fictive kin and submit to the FSW supervisor for review and approval;

(5) Based on the results of the background checks listed above, request any necessary Division of Children and Family Services policy waivers;

(6) If the FSW supervisor approval is attained, submit the home study to the court with the recommendation to place the child with the relative or fictive kin so that the relative or fictive kin may obtain legal temporary custody;

(7) Open a protective services case on the child if the court grants temporary custody to the relative or fictive kin;

(8) Schedule a staffing within thirty (30) days of opening the protective services case;

(9)(A) Invite the child's parents, relatives, the child (if age appropriate) and community providers as appropriate.

(B) During the staffing these individuals will determine the permanency goal for the child:

(i) Reunification;

(ii) Adoption;

(iii) Guardianship;

(iv) Permanent custody with the relative; or

(v) APPLA;

(10) Complete or update the FAST within thirty (30) days of opening the protective services case and submit to the FSW Supervisor for review and approval;

(11) Develop or update the case plan within thirty (30) days of opening the protective services case and submit to the FSW Supervisor for review and approval;

(12) Complete the permanency planning hearing court report and submit to the FSW Supervisor for review and approval;

(13) After receiving approval from the FSW Supervisor for the permanency planning hearing court report, submit to the Office of Chief Counsel attorney within fourteen (14) days prior to any permanency planning hearing scheduled for the case;

(14) Submit the permanency planning hearing court report to the Office of Chief Counsel, CASA, and all parties no later than fourteen (14) days before the scheduled permanency planning hearing;

(15) Hold staffings, as needed, in accordance with 9 CAR § 40-506, case staffings, and update the FAST;

(16) Invite the Adoption Specialist to the staffing when appropriate; and

(17) Conduct a staffing to discuss closure when appropriate.

(b) The FSW Supervisor will:

(1) Review and approve the home study;

(2) Review and approve the FAST within thirty (30) days of the FSW opening the protective services case;

(3) Review and approve the case plan within the thirty (30) days of the FSW opening the protective services case;

(4) Review and approve the permanency planning hearing court report prior to the FSW's submission of this report to the Office of Chief Counsel attorney; and

(5) Conference with and support the FSW on the case as necessary.

(c) The Adoption Specialist will:

(1) Attend staffings when invited; and

(2) Keep his or her Adoption Supervisor informed of the child's permanency goal and progress toward that goal.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-712. Maintaining family ties in out-of-home-placements.

(a)(1) Removal from the home and subsequent out-of-home placement are traumatic events for children.

(2) One way this trauma may be minimized is by maintaining family ties in out-of-home placements.

(3) Moreover, the Division of Children and Family Services believes that strengths of families and supporting these strengths contribute to life-long permanent relationships for children.

(4) This belief is supported by research demonstrating that children who maintain positive family ties while in out-of-home placement achieve better short-term and long-term outcomes.

(5) If court orders differ from the requirements outlined in this policy and related procedures regarding visits and contact with family members, the division will comply with court orders accordingly.

(b) **Contact with parents.**

(1)(A) In order to maintain and strengthen the parent-child relationship, visits and other forms of contact with parents and their children in out-of-home placements are essential.

(B) Visits between parents, including noncustodial and putative parents as applicable, and their children will occur at least weekly based upon the child's best interest.

(C) More frequent visits are encouraged, as appropriate.

(D) A positive drug or alcohol screen in and of itself will not result in the

postponement and/or withholding of visits between a parent and child in Department of Human Services custody unless:

(i) The parent is under the influence of drugs and/or alcohol at the time of the scheduled visit and has observable behavior indicating impairment of parenting capacity; or

(ii) A court order specifies that a parent's positive screen will result in the withholding of parent-child visits.

(2)(A) There is a legal presumption that visits may be unsupervised unless evidence has been provided to and the court has made a ruling that unsupervised visitation is not in the best interest of the children involved.

(B) The burden is upon division staff to provide evidence regarding why visits must be supervised or may be unsupervised.

(3)(A) If the court orders supervised visitation, the parent from whom custody of the child has been removed will receive a minimum of four (4) hours of supervised visitation per week.

(B) The court may order less than four (4) hours of supervised visitation if the court determines that the supervised visitation is not in the best interest of the child or will impose an extreme hardship on one (1) of the parties.

(4)(A) Visits that have been ordered to be supervised may be graduated to unsupervised depending on the dynamics of the case.

(B) Any division staff member as well as approved student interns and volunteers may supervise visits.

(C) However, the appropriate supervisor will individualize each assignment to supervise visits.

(D) When making the assignment, the supervisor will consider the family's history, current level of functioning, and any other applicable factors as well as the skill set of the individual selected to supervise the visit.

(5)(A) The preferred location for visits is the parent's home or, if that is not possible, in the most home-like setting possible.

(B) Office visits are a last resort.

(C) Visits are encouraged to include any variety of quality family time activities such as visiting a library/story time at a library, playing at a park, making and enjoying a meal together, etc., as appropriate for an individual family.

(6)(A) While children are in out-of-home placements, the division, in conjunction with foster parents and placement providers, will update parents regarding their children's lives including providing information regarding, without limitation:

(i) Status of physical, behavioral, and emotional health;

(ii) Progress in school;

(iii) Involvement in extracurricular activities; and

(iv) Achievements.

(B) Parents will be invited to participate in their children's school, faith-based, and extracurricular activities as appropriate.

(7)(A) The specific plan for visits between a child in out-of-home placement and his or her parents, as appropriate, will be included in the case plan.

(B) As the family prepares for reunification, the frequency and/or length of visits will increase while the level of supervision will decrease accordingly.

(C) The case plan will be updated as needed to reflect changes regarding visits and other contact.

(8)(A) Foster parents and approved relative and fictive kin volunteers may communicate directly with biological parents when appropriate and in the child's best interest to:

(i) Give updates on the child's progress;

(ii) Inform them of the child's school and extracurricular activities; and

(iii) Share photos.

(B) Foster parents and approved relative and fictive kin volunteers are also encouraged to consider supporting the parent-child relationship in other ways such as:

(i) Helping the child write letters to his or her parents;

(ii) Creating life books with the children to then share with the

biological parents; and

(iii) Presenting a positive view of the child's parents to the child to the extent possible.

(9) In addition, since foster parents can model positive parenting skills that may help the biological parents to achieve reunification, foster parents may consider hosting parent-child visits, if appropriate and acceptable to all individuals involved.

(10) When assessing the appropriateness of foster parents and approved relative and fictive kin volunteers communicating directly with biological parents, holding parent-child visits in the foster parent home, or transporting the child to parent-child visits, the division will ensure the foster parents and approved relative and fictive kin volunteers thoroughly understand all court orders related to parent-child contact and consider:

(A) Various family dynamics;

(B) Progress of the case at that point in time; and

(C) Experience and other skills sets of the foster family or approved relative and fictive kin volunteers.

(11)(A) Division staff members will discuss with foster parents, approved relative and fictive kin volunteers and biological parents the level of comfort that both sets of parents have with foster parents or approved relative and fictive kin volunteers providing transportation to parent-child visits or, as applicable to foster parents hosting/supervising parent-child visits.

(B) Staff will not expect foster parents to host/supervise parent-child visits and/or transport to parent-child visits:

(i) During the first placement they have as foster parents; and

(ii) During the first month of any open foster care case regardless of the number of times they have served as foster parents.

(C) Exceptions to the above guidelines may be made if the foster parents express an interest in assisting with parent-child visits under these conditions.

(D) Even when foster parents state they are willing to assist with parent-child visits during the first placement they have as foster parents or during the first

month of any open foster care case, the FSW will make a decision regarding the foster parents' involvement with parent-child visits after carefully assessing each individual case and the dynamics involved.

(E) Even after the first month of an open foster care case, if foster parents desire to assist with parent-child visits, the FSW will continue to assess on a case-by-case basis the appropriateness of foster parent involvement for each foster care placement.

(12)(A) The division will assist the foster parents and approved relative and fictive kin volunteers and biological parents in establishing appropriate expectations and boundaries regarding communication and interaction (e.g., frequency and specific times the biological parent may call and/or visit the foster home).

(B) Any direct interaction between the biological parents and foster parents or approved relative and fictive kin volunteers in no way relieves the division of its duty to ensure the biological parents remain current on all aspects of their case and their children.

(c) **Contact with siblings.**

(1)(A) Sibling relationships are emotionally powerful and critically important not only in childhood, but over the course of a lifetime with sibling relationships likely to be the longest relationships most people experience.

(B) Siblings include those individuals who would be considered a sibling under state/tribal law if it were not for the disruption in parental rights, such as a termination of parental rights or death of a parent.

(2)(A) For children in out-of-home placements, sibling relationships can provide a significant source of continuity, stability, and comfort while in foster care.

(B) As such, when it is in the best interest of each of the children and barring extenuating circumstances, siblings are entitled to be placed together in out-of-home placements.

(3)(A) Siblings may be placed separately only if:

(i)*(a)* Allegations of abuse between siblings are under investigation and/or have been founded.

(b) An assessment must be conducted by a mental health professional within five (5) days of placing siblings in different placements due to the abuse allegations between the siblings that are under investigation and/or have been founded.

(c) The siblings may continue in the separated placements if the assessment by the mental health professional supports continuing the separated placements because placing the siblings together would be detrimental to the health, safety, or well-being of one (1) or more of the children as related to the abuse allegations and/or investigation findings;

(ii) An assessment by a mental health professional determines that placing the siblings together would be detrimental to the health, safety, or well-being of one (1) or more of the children; or

(iii) The division presents evidence to the court that there are no available placements that can take the entire sibling group.

(B) If children must be separated, the division will attempt to place them in close proximity in order to facilitate regular and meaningful contact.

(C) The division will ensure the reasons for the separation of siblings into different foster homes or other approved placements are regularly reassessed and targeted recruitment efforts continue to reunite the siblings.

(D) The case plan must include when siblings will be reassessed to determine if they can be reunited at a later point in time.

(E) If the reassessment determines reunification is appropriate, the plan for placing siblings together will be documented in the case plan as well.

(4)(A) In an effort to maintain sibling connections for those siblings who are placed separately, the siblings' case will be reviewed by the court at least once every ninety (90) days to determine whether there have been reasonable efforts to reunite the siblings and to allow regular and meaningful contact with the siblings.

(B) If the court approves a paper review, the ninety-day court reviews of separated siblings may be satisfied by such a review and a hearing is not required.

(5)(A) In addition, siblings who must be placed separately will have consistent

and meaningful contact at least weekly when possible.

(B) While face-to-face visits in home-like settings or other family-friendly locations are preferred and encouraged, other forms of communication such as phone calls, emails, and Skype or FaceTime (or similar program) conversations are permissible, as age and developmentally appropriate, to meet the weekly contact requirement.

(C) However, siblings who are placed separately will have at least biweekly face-to-face visits unless a FSW supervisor grants a visit waiver.

(D) The plan for sibling visits and other contact will be outlined in the case plan.

(E) Visits or other forms of contact with siblings will not be withheld by the division or any placement provider as a behavioral consequence unless there are documented safety concerns for one (1) or more of the siblings.

(6)(A) Siblings also have the right to remain actively involved in each other's lives.

(B) Aside from regularly scheduled visits, the division, foster parents, approved relative and fictive kin volunteers, and other placement providers will work together to allow siblings to share celebrations including birthdays, holidays, graduations, and other meaningful milestones when possible.

(C) The division, foster parents, approved relative and fictive kin volunteers, and other placement providers will also collaborate to ensure siblings attend each other's extracurricular events such as athletic events, musical performances, and faith-based events when reasonable and practical.

(7)(A) The division will ensure siblings are included in one another's case plan staffing decisions and permanency planning decisions as age and developmentally appropriate.

(B) Siblings will also be notified when another sibling has a change in placement or exits foster care as age and developmentally appropriate.

(C) When a sibling leaves foster care, that sibling will be allowed, as appropriate, to maintain contact with a sibling who remains in an out-of-home

placement.

(D) The division will also strive to help children in foster care maintain relationships with their siblings who are not in out-of-home placements or who have been adopted or placed in permanent custody or guardianship.

(d) **Contact with relatives and other fictive kin.**

(1) In an effort to ensure foster care supports the permanency and well-being of the children in department custody, children may have an opportunity to visit or have other forms of contact with noncustodial parents, grandparents, great-grandparents, other relatives, and fictive kin provided the visits are in the best interest of the children.

(2) It is the responsibility of the division to explore the willingness and appropriateness of identified relatives and fictive kin interested in being involved in the lives of children in out-of-home placements.

(e) **Contact after termination of parental rights.**

(1) If it is in the child's best interest, visits with relatives may continue after termination of parental rights (TPR).

(2) Visits after TPR will continue until an adoptive placement is made or the out-of-home placement case is closed.

(3) The division will encourage adoptive parents to consider allowing contact between biological relatives and fictive kin with their adopted children, as appropriate.

(4) Continuation of visits with relatives does not include the parents for whom the agency has obtained TPR.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-713. Parent-child contact for children in out-of-home

placements.

(a) The Family Service Worker will:

(1) Within five (5) working days of placement, assess and determine what, if any, evidence must be provided to the court to establish that supervised visitation is necessary;

(2) Regardless of the type of visitation (i.e., supervised or unsupervised) needed for a particular family, establish the frequency and length of parent-child visits, to include noncustodial and putative parents as appropriate, in order to develop a visit plan to recommend to the court;

(3)(A) Obtain approval from FSW Supervisor for any deviations from required frequency of visits.

(B) If approved, request appropriate visit waiver in CHRIS;

(4)(A) Arrange for visits with parents as outlined in the case plan to include assisting with transportation, supervision of visits, and/or other logistics, as needed.

(B) This coordination may include asking Program Assistants (PAs), foster parents, interns, approved relative and fictive kin volunteers, and/or nonrelative volunteers to assist with transportation to visits and asking Program Assistants (PAs), foster parents, interns, and/or nonrelative volunteers to assist with the supervision of visits, as appropriate.

(C) The FSW will ensure any PAs, foster parents, interns, and/or nonrelative volunteers supervising parent-child visits:

(i) Know the history and other applicable dynamics of the case; and

(ii) Understand what they are to observe and/or assist with while providing said supervision;

(5) Prepare children for visits with their parents;

(6) Ask Program Assistants, interns, approved relative and fictive kin volunteers, and/or nonrelative volunteers, as applicable, for information he or she obtained while assisting with parent-child visits and/or review PA CHRIS contact entries, as applicable;

(7) Update the CANS and/or case plan as necessary based on the interaction

and/or outcomes of parent-child visits; and

(8) Conference with FSW Supervisor as necessary regarding parent-child visits.

(b) The Family Service Worker Supervisor will:

(1) Review and approve the plan for visits and other contact with parents;

(2) Assist with parent-child visit logistics if needed; and

(3) Conference regularly with the FSW and other staff who may supervise visits to assess the quality of the visits and to determine if any changes to the plan for visits and/or other contact are needed.

(c) The Program Assistant will:

(1) Assist with transports to and/or supervision of parent-child visits as assigned; and

(2) Share information gathered from transports to and supervision of parent-child visits with FSW and document information in CHRIS contact screens.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-714. Sibling contact for children in out-of-home placements.

(a) The Family Service Worker will:

(1)(A) Include in the case plan the reasons for the separation, if applicable, as well as the steps that will be taken to reunify the siblings in a single placement, if appropriate.

(B) Arrange for an assessment by a mental health professional within five (5) days to determine if placing the siblings together would be detrimental to the health, safety, or well-being of one (1) or more of the siblings as needed;

(2) Within five (5) working days of placement, assess and determine the

frequency and length of sibling visits in order to develop a visit plan to recommend to the court;

(3)(A) Obtain approval from the FSW Supervisor for any deviations from required frequency of visits.

(B) If approved, request appropriate visit waiver in CHRIS;

(4)(A) Arrange for visits with siblings as outlined in the case plan as well as participation in sibling celebrations and attendance of sibling extracurricular events, to include assisting with transportation and/or other logistics, as needed.

(B) This coordination may include asking Program Assistants (PAs), interns, foster parents, approved relative and fictive kin volunteers, and/or nonrelative volunteers to assist with transportation to visits and asking PAs, interns, foster parents, and nonrelative volunteers to assist with supervision of visits, as appropriate.

(C) Encourage foster parents to assist with siblings participating in one another's various celebrations and extracurricular activities;

(5) Prepare children for visits with their siblings;

(6) Ensure supervision of visits if needed;

(7) Document sibling visits and participation in sibling celebrations and extracurricular activities in CHRIS contact screens;

(8) Ask Program Assistant for information he or she obtained while assisting with sibling visits and other contact and/or review PA CHRIS contact entries, as applicable;

(9) Update the CANS and/or case plan as necessary based on the interaction and/or outcomes of sibling visits and other contacts;

(10) Conference with FSW Supervisor as necessary regarding sibling visits and other contacts;

(11) Document efforts to reunify siblings placed separately in CHRIS contacts screen;

(12) Document sibling visits that occur after TPR in CHRIS contacts screen;

(13) Prepare the packet for the ninety-day court review to include:

(A) Ninety-day case review cover sheet;

(B) The case plan participants and visitation plan sections of the case plan;

(C) The family visit log for the preceding ninety (90) days listing only the sibling visits and/or parent visits that include all siblings as well (i.e., exclude visits involving only parents and one (1) child); and

(D) Printed CHRIS contact screens for the past ninety (90) days regarding sibling visits, other sibling contact, and efforts to reunify siblings;

(14) Submit the ninety-day case review packet to the FSW supervisor for review; and

(15) Submit the ninety-day case review packet to the local Office of Chief Counsel attorney.

(b) The Family Service Worker Supervisor will:

(1) Review and approve the plan for visits and other contact with siblings;

(2) Assist with sibling visit logistics if needed;

(3) Conference regularly with the FSW and other staff, interns, and/or volunteers, as applicable, involved with siblings' visits to assess the quality of the visits and to determine if any changes to the plan for visits and/or other contact are needed; and

(4) Review the ninety-day court review packet and request any necessary changes.

(c) The Program Assistant will:

(1) Assist with transports to and/or supervision of sibling visits as assigned; and

(2) Share information gathered from transports to and supervision of sibling visits with FSW and document information in CHRIS contact screens.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-715. Other relative and fictive kin child contact in out-of-home placement.

(a) The Family Service Worker will:

(1) Assess and determine the frequency and length of contact with other relatives and fictive kin to recommend to the court;

(2)(A) Arrange for contact with other relatives or fictive kin as outlined in the case plan to include assisting with transportation and/or other logistics, as needed.

(B) This coordination may include asking Program Assistants (PAs), interns, foster parents, approved relative and fictive kin volunteers, and/or other volunteers to assist with transportation to visits to and asking PAs, interns, foster parents, and/or other volunteers to assist with supervision of visits, as appropriate;

(3) Prepare children for visits with other relatives and fictive kin;

(4) Ensure supervision of visits as needed;

(5) Update the CANS and/or case plan as necessary based on the interaction and/or outcomes of contact with other relatives and fictive kin; and

(6) Conference with FSW Supervisor as necessary regarding contact with other relatives and fictive kin.

(b) The Family Service Worker Supervisor will:

(1) Review and approve the plan for contact with other relatives and fictive kin;

(2) Assist with logistics of contact with other relatives and fictive kin if needed; and

(3) Conference regularly with the FSW and other staff who may supervise visits with other relatives and fictive kin to assess the quality of the visits and to determine if any changes to the plan for visits and/or other contact are needed.

(c) The Program Assistant will:

(1) Assist with logistics of contact with relatives and fictive kin as assigned;

and

(2) Share information gathered from interaction with children, other relatives, and fictive kin with FSW and document information in CHRIS contact screens.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-716. Initial and general health services for children receiving out-of-home placement services.

(a)(1) The Division of Children and Family Services shall ensure that all necessary medical services are provided to children receiving out-of-home placement services in order to promote their optimal physical, mental, and emotional health and well-being.

(2) Foster parents will play an integral role in meeting the child's daily health and well-being needs.

(b)(1) As the legal custodian for children in out-of-home placements, the division has the right to obtain the medical records of any child upon presentation of an order of custody.

(2) In addition, the division has the right to obtain medical care for any child in Department of Human Services custody, including giving consent to specific medical, dental, or mental health treatments and procedures as required in the opinion of an authorized or licensed physician, dentist, surgeon, or psychologist, whether or not such care is provided on an emergency, inpatient, or outpatient basis.

(3) However, the division shall not make any of the following decisions without receiving express court approval:

(A) Consent to the removal of bodily organs, unless the procedure is necessary to save the life of the child;

(B) Consent to withhold life-saving treatments;

(C) Consent to withhold life-sustaining treatments; or

(D) Amputation of any body part.

(c)(1) An initial health screening will be held.

(2) If the initial screening indicates that treatment or further evaluation is needed, the division shall ensure that such treatment or evaluation is promptly provided.

(d)(1) A medical passport will be completed for each child in an out-of-home placement.

(2) The medical passport is a brief, readable, and current summary of the child's health history and current health status for use by present and future caretakers of the child.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-717. Initial health screening for children receiving out-of-home placement services.

The Family Service Worker or Health Services Specialist will:

(1) Ensure that each child who enters the custody of the Department of Human Services shall receive an initial health screening, not more than twenty-four (24) hours after removal from home, if the reason for removal is an allegation of severe child maltreatment under Arkansas Code § 12-18-602, or there is evidence of acute illness or injury;

(2) Ensure that all other children who enter the custody of the department receive an initial health screening no more than seventy-two (72) hours after removal

from home;

(3) Complete the CFS-362: Medi-Alert to Foster Care Provider from information obtained from the child's parents;

(4) Use information obtained from the CFS-362: Medi-Alert to Foster Care Provider to complete the CFS-6007: Placement Plan-Placement Provider Information Report, by keying the "Gen. Info" screen in the "Client section" of CHRIS and all "Shots" screens in the "Medical" section of CHRIS;

(5) Complete the CFS-6012: Client Medical and Psychological Information Report by keying all screens found in the "Medical" section of CHRIS from information obtained from the child's parents and the CFS-362: Medi-Alert to Foster Care Provider;

(6) Schedule appointments as indicated by the initial screening; and

(7) Ask the medical provider to complete the CFS-366: Health Screening.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-718. Foster parent involvement in health care for children receiving out-of-home placement services.

(a) The foster parents will:

(1) Accompany the child to all medical appointments; and

(2) Inform the Division of Children and Family Services of any scheduled medical visits or medical problems for the child.

(b) Foster parents are authorized to provide consent to medical treatment (excluding mental health services,see 9 CAR § 40-750) for children in their care in the following cases:

(1)(A) Emergency situation.

(B) An "emergency situation" is one (1) in which the proposed surgical or medical treatment or procedures are immediately or imminently necessary and any delay occasioned by an attempt to obtain consent would reasonably be expected to jeopardize the life, health, or safety of the person affected or would reasonably be expected to result in disfigurement or impaired faculties;

(2) Routine medical treatment;

(3) Ongoing medical treatment; and

(4) Nonsurgical procedures by a primary or specialty care provider.

(c) The Family Service Worker or Health Services Specialist will:

(1) Provide necessary support services to enable foster parents to accompany the child to any medical appointment; and

(2) Provide consent to medical treatment (excluding mental health services — see 9 CAR § 40-750) for children in foster care in the following cases:

(A) Nonemergency surgical procedures;

(B) Nonemergency invasive procedures;

(C) "End of life" nonemergency procedures which include:

(i) Do-not-resuscitate orders, with Director of the Division of Children and Family Services approval and a court order;

(ii) Withdrawal of life support, with director approval and a court order; and

(iii) Organ donation, with director approval; and

(D) Nonemergency medical procedures relating to a criminal investigation or judicial proceeding that involves gathering forensic evidence.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2009"

9 CAR § 40-719. Gathering and maintaining health records for children receiving out-of-home placement services.

The Family Service Worker or Health Services Specialist will:

(1) Gather each child's healthcare history from healthcare providers who have

evaluated or treated:

(A) The child;

(B) The child's family;

(C) Previous caretakers; and

(D) From school reports;

(2) Provide the child's healthcare history to the physician conducting the comprehensive health assessment;

(3) Request medical records on the child and document requests on the CFS-353: Requested Medical Records Log;

(4) Record the date of each medical visit, the condition or problem addressed, the diagnosis and treatment (or periodic screening and the results of the screening), and the healthcare provider's name and telephone number in the "medical visits" screen in CHRIS; and

(5)(A) Place all information gathered as to the child's health history, and all records of health screening, assessment, and treatment during placement, in the child's case record.

(B) This includes the:

(i) CFS-352: Medical, Dental, Vision, Hearing and Psychological Episodic;

(ii) CFS-353: Requested Medical Records Log;

(iii) CFS-362: Medi-Alert to Foster Care Provider;

(iv) CFS-366: Health Screening;

(v) CFS-368: Child's Health Services Plan;

(vi) CFS-6007: Placement Plan-Placement Provider Information; and

(vii) CFS-6012: Client Medical and Psychological Information.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-720. Medical passport for children receiving out-of-home placement.

The Family Service Worker or Health Services Specialist will:

(1)(A) Develop and maintain the medical passport.

(B) The medical passport will consist of the:

(i) CFS- 352: Medical, Dental, Vision, Hearing and Psychological Episodic;

(ii) CFS-353: Requested Medical Records Log;

(iii) CFS-362: Medi-Alert to Foster Care Provider;

(iv) CFS-366: Health Screening;

(v) CFS-368: Child's Health Services Plan;

(vi) CFS-6007: Placement Plan-Placement Provider Information; and

(vii) CFS-6012: Client Medical and Psychological Information;

(2) Provide the CFS-365: Receipt for Medical Passport to the out-of-home placement provider for completion to verify receipt of the medical passport; and

(3) Provide a copy of the medical passport to:

(A) The out-of-home placement provider and to the child's new caretaker if the child is moved;

(B) The child (if the child is in the Transitional Youth Services Program);

(C) The child when he or she reaches the age of majority; or

(D) The parents, if the child returns home.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-721. Comprehensive health assessment and health plan for children receiving out-of-home placement services.

(a)(1) A comprehensive health assessment of each child shall be completed.

(2) The assessment shall be conducted under the supervision of:

(A) A physician; and

(B) A qualified mental health practitioner.

(3) Whenever possible, the Family Service Worker, Health Services Specialist, family, and foster parents shall be involved in the assessment to ensure as much

information about the child as possible is available to the examining professionals.

(b)(1) A written plan specifying any conditions requiring treatment, the recommended treatment, the schedule for treatment, the names of healthcare providers responsible for treatment, and the results of treatment as it occurs shall be completed and updated periodically.

(2) This plan shall be provided to the child's birth parents and foster parents.

(3) The birth parents shall be:

(A) Informed about any medical treatment scheduled for their child; and

(B) Involved in and informed about their child's health care.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2008"

9 CAR § 40-722. Comprehensive health assessment and Arkansas Children's Hospital.

(a) **Comprehensive health assessment.** The Family Service Worker or Health Services Specialist will:

(1) Arrange to have the comprehensive health assessment completed within sixty (60) calendar days of removal from home;

(2) Complete the CFS-6012: Client, Medical and Psychological Information Report within seven (7) calendar days after completion of the comprehensive health assessment; and

(3) Schedule needed medical appointments for the child as indicated in the CFS-6012: Client, Medical and Psychological Information Report after this form is received from University of Arkansas for Medical Sciences.

(b) **Arkansas Children's Hospital (ACH) Outpatient Services.**

(1) The Family Service Worker will sign the initial Arkansas Children's Hospital consent for outpatient services, the Arkansas Children's Hospital consent for in-patient services, and any other informed consents as required by the Arkansas Children's Hospital informed consent policy, e.g., surgical procedures, anesthesia, etc.

(2)(A) The Arkansas Children's Hospital routine outpatient consent form may serve as a valid consent for all routine outpatient care.

(B) Foster parents are authorized to sign additional routine consent forms for outpatient care.

(3)(A) When the FSW is unable to accompany the foster parent for the initial outpatient visit or for outpatient surgery or when informed consent is required before a medical or surgical treatment may be performed, verbal or phone consent may be provided.

(B) No consent is necessary for treatment of a child when a medical emergency concerning the child exists.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2008"

9 CAR § 40-723. Health plan for children receiving out-of-home placement services, consent for treatment, and life sustaining treatment.

(a) The FSW or Health Services Specialist will:

(1) Sign any necessary consent for medical or dental treatment (excluding mental health services — see 9 CAR § 40-750) prior to the child receiving treatment in the following cases, consent may be given in person, over the phone, or via fax:

(A) Nonemergency surgical procedures;

(B) Nonemergency invasive procedures;

(C) "End of life" nonemergency procedures which include:

(i) Do-not-resuscitate orders, with the Director of the Division of Children and Family Services approval and a court order;

(ii) Withdrawal of life support, with director approval and a court order; and

(iii) Organ donation, with director approval; and

(D) Nonemergency medical procedures relating to a criminal investigation or judicial proceeding that involves gathering forensic evidence;

(2) Complete the CFS-368: Child's Health Services Plan within fourteen (14) calendar days after completion of the comprehensive health assessment;

(3) Inform parents of any medical treatment and involve them as appropriate;

(4) Update the CFS-368: Child's Health Services Plan at least every six (6) months;

(5) Provide copies of updates of the CFS-368: Child's Health Services Plan to the child's parents and the out-of-home placement provider; and

(6) Ask the medical provider to complete the CFS-366: Health Screening.

(b) **Life sustaining treatment.**

(1) The FSW must obtain the permission of the Director of the Division of Children and Family Services and a court order for the withholding or withdrawing of life sustaining treatment of any child in the custody of the division.

(2) The FSW must obtain the permission of the director for any organ donation.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2009"

9 CAR § 40-724. Periodic health reassessment of children receiving out-of-home placement services.

Following the initial screening and comprehensive health assessment, the Division of Children and Family Services shall ensure that periodic medical, dental, mental health, vision, and hearing evaluations are conducted by qualified providers, according to the periodicity schedules approved by the Division of Medical Services.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2010"

9 CAR § 40-725. Periodic health reassessment of children receiving out-of-home placement services.

The Family Service Worker or Health Services Specialist will:

(1)(A) Refer all children receiving out-of-home placement services for the Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT) via the EMS-694 "EPSDT" form to the child's primary care physician (PCP), or other EPSDT providers after the initial screening and the comprehensive health assessment.

(B) If it is the first time the child has seen a healthcare provider while in the out-of-home placement, a primary care provider must be selected;

(2) Make an appointment with the PCP or other EPSDT providers for the EPSDT screening;

(3) File a copy of the examination report upon receipt from provider;

(4)(A) Schedule all subsequent screenings according to established periodicity schedules.

(B) The most recent periodicity schedules can be found in the Arkansas Medicaid provider manuals;

(5) Ensure all essential treatment is provided and documented in CHRIS in a timely manner; and

(6) Ask the medical provider to complete the CFS-352: Medical, Dental, Vision, Hearing, and Psychological Episodic at each subsequent examination.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2010"

9 CAR § 40-726. Policy — Case review judicial hearings for children in out-of-home placement.

(a) **Adjudication and disposition hearings.**

(1)(A) Following a probable cause hearing, an adjudication hearing shall be held to determine whether the allegations in a petition are substantiated by a preponderance of the evidence.

(B) The dependency-neglect adjudication hearing shall be held within thirty (30) days after the probable cause hearing under Arkansas Code § 9-27-315.

(C) On motion of the court and parties for good cause shown, it may be continued for no more than thirty (30) days following the first thirty (30) days (i.e., up to sixty (60) days after the probable cause hearing).

(D) However, if necessary and relevant evidence cannot be obtained in a timely manner the dependency-neglect adjudication hearing may be continued for up to an additional thirty (30) days (i.e., up to ninety (90) days after the probable cause hearing) upon motion of the court or any party.

(2)(A) In dependency-neglect cases, a written adjudication order shall be filed by the court within thirty (30) days of the date of the hearing or prior to the next hearing, whichever is sooner.

(B) The Office of Chief Counsel is responsible for drafting and filing court orders.

(C) The court can determine the case disposition at the adjudication or at a separate hearing.

(D) A disposition determines what actions the agency will take in the case.

(3)(A) A judicial determination as to whether reasonable efforts were made or were not required to prevent removal must be made no later than sixty (60) days from the date the child is removed from the home.

(B) If a judicial determination concerning reasonable efforts to prevent removal is not made within the specified timeframe, the child will be ineligible for IV-E foster care maintenance payments for the duration of that stay in foster care.

(b) **Six-month review hearings.**

(1)(A) The court will review out-of-home placement cases no less than every six (6) months, including children in out-of-home cases who are placed out-of-state.

(B)(i) The first six-month review shall be held no later than six (6) months from the date of the original out-of-home placement of the child.

(ii) However, the court may require a review prior to the sixth-month review hearing.

(C) In addition, at any time during the life of an out-of-home placement case, any party may request the court to review the case, and the party requesting the hearing shall provide reasonable notice to all parties.

(2)(A) At each sixth-month hearing the court will review the case sufficiently to determine the future status of the child based on the child's best interest.

(B) The court shall determine and include in its orders the following:

(i) Whether the case plan, services, and placement meet the needs and best interest of the child, with the child's health, safety, and educational needs specifically addressed;

(ii) Whether the Division of Children and Family Services has made reasonable efforts to provide family services;

(iii) Whether the case plan is moving towards an appropriate

permanency plan for the child, per Arkansas Code § 9-27-338; and

(iv) Whether the visitation plan is appropriate for the child, the parent or parents or any siblings, if separated.

(3)(A) The court may order any studies, evaluations, or postdisposition reports, if needed.

(B) All such documents will be provided in writing to all parties and counsel at least two (2) days prior to the review hearing.

(C) All parties will be given a fair opportunity to dispute any part of a study, evaluation, or postdisposition report.

(4) In making its findings, the court shall consider the following:

(A) The extent of compliance with the case plan, including but not limited to, a review of the division's care for the health, safety, and education of the child while the child has been in an out-of-home placement;

(B) The extent of progress made toward alleviating or mitigating the causes necessitating the out-of-home placement;

(C) Whether the child should be returned to his or her parent or parents and whether the child's health and safety can be protected by his or her parent or parents if returned home; and

(D) An appropriate permanency plan pursuant to Arkansas Code § 9-27-338 for the child, including concurrent planning (e.g., adoption, legal guardianship, APPLA, as appropriate).

(5)(A) Pertaining to Title IV-E eligibility requirements, the judicial review is conducted by court review, not an administrative review process.

(B) During each six-month review, the court shall make determinations based upon the best interest of the child.

(C) The best interest of the child shall be paramount at every stage of the judicial process.

(c) **Permanency planning hearing.**

(1)(A) Each child in an out-of-home placement, including children placed out-of-state, shall have a permanency planning hearing (PPH) no later than twelve (12)

months of the date the child is considered to have entered foster care and not less frequently than every twelve (12) months thereafter during the continuation of foster care.

(B) A child will be considered to have entered foster care on the earlier of:

(i) The date of the first judicial finding that the child has been subjected to child abuse or neglect; or

(ii) The date that is sixty (60) days after the date on which the child is removed from the home.

(2)(A) In-state and out-of-state options, including interstate placement, if appropriate, will be considered when making reasonable efforts to place the child in a timely manner in accordance with the permanency plan.

(B) Reasonable efforts will be made to complete the steps necessary to finalize the legal permanent placement of the child.

(C) If the child is in an out-of-state placement at the time of the hearing, the court will determine whether the placement continues to be appropriate and is in the best interest of the child.

(D) When the court determines that reasonable efforts to return the child home are not required, the court shall hold a permanency planning hearing within thirty (30) days of the determination to enter a new disposition in the case to determine the child's future status.

(E) A permanency planning hearing shall also be held after a child has been in an out-of-home placement for fifteen (15) of the previous twenty-two (22) months, excluding the time spent while the child is on a trial home placement and runaway status.

(F) The permanency planning hearing will be conducted by the court, not by an administrative body.

(3)(A) When it becomes necessary to transfer a case to another venue, the court will contact the judge in the other venue to confirm that the transfer will be accepted.

(B) After confirmation has been received, the transferring judge will enter

a transfer order with the time and date of the next hearing and the location of the court in the new venue.

(C) The transferring judge will immediately transmit the order to the judge in the new venue.

(D) A copy of the order will be provided to all parties and attorneys to the case.

(E) The transferring court will copy and send all court records to the judge in the new venue.

(4)(A) The division must obtain a judicial determination that reasonable efforts were made to finalize the permanency plan for the child no later than twelve (12) months of the date the child entered foster care.

(B) If a child remains in an out-of-home placement after the initial permanency planning hearing, an annual permanency planning hearing shall be held to reassess the permanency goal selected for the child.

(C) If a judicial determination regarding reasonable efforts to finalize a permanency plan is not made, the child will be ineligible under Title IV-E from the end of the twelfth month following the date the child is considered to have entered foster care or the end of the twelfth month following the month in which the most recent judicial determination of reasonable efforts to finalize a permanency plan was made, and remains ineligible until such a judicial determination is made.

(5) Reasonable efforts to finalize an alternate permanency plan such as placing a child with a fit and willing relative or fictive kin for adoption or with a legal guardian, including identifying appropriate in-state and out-of-state placements, will be made concurrently with reasonable efforts to reunify the child and family.

(6) The permanency planning hearing (PPH) shall determine the permanency goal for the child that includes, listed in order of preference, in accordance with the best interest, health, and safety of the child:

(A) Placing custody of the child with a fit parent at the permanency planning hearing;

(B) Returning the child to the guardian or custodian from whom the child

was initially removed at the permanency planning hearing;

(C) Authorizing a plan to place custody of the child with a parent, guardian, or custodian only if the court finds that:

(i)*(a)* The parent, guardian, or custodian is complying with the established case plan and orders of the court, making significant progress toward achieving goals established in the case plan and diligently working toward reunification or placement in the home of the parent, guardian, or custodian.

(b) Regardless of when the effort was made, the court shall consider all evidence of an effort made by the parent, guardian, or custodian to remedy the conditions that led to the removal of the child or children from the custody of the parent, guardian, or custodian and give the evidence the appropriate weight and consideration in relation to the safety, health, and well-being of the child or children.

(c) The burden is on the parent, guardian, or custodian to demonstrate genuine, sustainable investment in completing the requirements of the case plan and following court orders in order to authorize a plan to return or be placed in the home as the permanency goal;

(ii) The parent, guardian, or custodian is making significant and measurable progress toward remedying the conditions that:

(a) Caused the child's removal from the home or the child's continued removal from the home; or

(b) Prohibits placement of the child in the home of a parent; and

(iii) Placement of the child in the home of the parent, guardian, or custodian shall occur within a time frame that is consistent with the child's developmental needs but no later than three (3) months from the date of the PPH;

(D) Authorizing a plan to obtain a guardianship or adoption with a fit and willing relative;

(E)(i) Authorizing a plan for adoption with the division filing a petition for termination of parental rights, unless:

(a) The child is being cared for by a relative and the court finds that:

(1) Either:

(A) The relative has made a long-term commitment to the child and is willing to pursue guardianship or permanent custody of the child; or

(B) The child is being cared for by his or her minor parent who is in foster care and TPR is not in the best interest of the child; and

(2) That termination of parental rights is not in the best interest of the child;

(b) The division has documented in the case plan a compelling reason why filing a petition to terminate parental rights is not in the child's best interest and the court approves the compelling reason as documented in the case plan; or

(c) The division has not provided the family of the child with services, consistent with the time period in the case plan, the services the division deemed necessary for the safe return of the child to the child's home if reunification services were required to be made to the family.

(ii) **Termination of parental rights.**

(a)(1) At any time during the course of a case, the Department of Human Services, the attorney ad litem, or the court can request a hearing on whether or not reunification services should be terminated.

(2) The requesting party shall provide notice to the parties at least fourteen (14) calendar days before the hearing.

(3) The notice shall identify the grounds for recommending termination of reunification services in sufficient detail to put the family on notice.

(b)(1) The requesting party shall present the case.

(2) The court shall conduct and complete a hearing on a "no reunification services" request within fifty (50) days of the date of written notice to the defendants.

(3) However, upon good cause shown, the hearing may be continued for an additional twenty (20) days.

(c)(1) The court shall determine whether reunification services shall be terminated and enter an order of that determination.

(2) If the court determines that reunification services shall be terminated, the court shall hold a permanency planning hearing within thirty (30) days after the determination.

(3) If the court determines the permanency goal to be TPR, the department shall file a petition to terminate parental rights within thirty (30) days from the date of the entry of the order establishing such goal.

(4) The court shall conduct and complete a TPR hearing within ninety (90) days from the date the termination of parental rights petition is filed, unless continued for good cause.

(5) After an order of termination of parental rights is filed, the court shall review the case at least every six (6) months until permanency is achieved for the child.

(6)(A) A permanency hearing shall be held each year following the initial hearing until permanence is achieved.

(B) Refer to 9 CAR § 40-908.

(7) The court reviews continue, even if a case is on appeal.

(d) The court may terminate parental rights on one (1) parent and not the other parent if the court finds that it is in the best interest of the child.

(iii) **Post-TPR visits.**

(a) If it is in the child's best interest, visits with siblings and with relatives may take place after TPR.

(b) Visitation after TPR will continue until an adoption placement is made or the out-of-home placement case is closed.

(c) Continuation of visits with relatives does not include the parents for whom the agency has obtained TPR;

(F) **Legal guardianship.**

(i) If the court grants legal guardianship no further services or periodic reviews are required.

(ii) If a legal guardianship supported by a subsidy is put in place, the division will conduct an annual review of the family's and child's circumstances and an

annual report to the court will be filed;

(G) **Permanent custody with a fit and willing relative.** If the court grants permanent custody no further services or periodic reviews are required; and

(H) **Independence (see definition in 9 CAR § 40-102, definitions), including an another planned permanent living arrangement (APPLA).**

(i)*(a)* In the case of a child who has attained sixteen (16) years of age, the permanency planning hearing will determine the services needed to assist the child to make the transition from foster care to successful adulthood.

(b) Independence shall be selected only if the division has documented to the circuit court a compelling reason for determining that it would not be in the best interest of the child to follow one (1) of the permanency plans above.

(ii) If the department concludes, after considering reunification, adoption, legal guardianship, or permanent placement with a fit and willing relative, that the most appropriate permanency plan for a child is placement in another planned permanent living arrangement, the department will document to the court the compelling reason for the alternate plan.

(7) The department may seek the services of the Federal Parent Locator Service to search for absent parents at any point in order to facilitate a permanency plan.

(d) **Notification of hearings and reviews**.

(1)(A) The department shall provide the foster parent or parents of a child, and any preadoptive parent or relative providing care for the child with timely notice of, and the right to be heard in, permanency planning hearings and six-month periodic reviews held with respect to the child during the time the child is in the care of such foster parent, preadoptive parent, or relative caregiver.

(B) Notice of, and the right to be heard, does not include the right to standing as a party to the case.

(2)(A) In any permanency planning hearing, including any hearing regarding the transition of the child from foster care to transitional living, procedural safeguards shall be applied to ensure the court or administrative body conducting the hearing

consults with age-appropriate children regarding the proposed permanency or transition plans.

(B) The hearing shall also address procedural safeguards with respect to parental rights pertaining to the removal of the child from the home of his or her parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

(3) Judicial determinations regarding "contrary to the welfare", reasonable efforts to prevent removal, and reasonable efforts to finalize the permanency plan in effect, including judicial determinations that reasonable efforts are not required, must be explicitly documented and made on a case-by-case basis and so stated in the court order.

(4) Reasonable efforts are not required to reunify the child and family if:

(A) The court has determined that the parent has subjected the child to aggravated circumstances (see 9 CAR § 40-102, definitions);

(B) The court has determined that the parent has committed:

(i) Murder of any child;

(ii) Manslaughter of any child;

(iii) Aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or such a manslaughter;

(iv) A felony battery that results in serious bodily injury to any child;

(v) Abandoned an infant as defined by Arkansas Code § 9-27-303; or

(vi) Registered with a sex offender registry under the Adam Walsh Protection and Safety Act of 2006, Pub. L. No. 109-248; and

(C) The parental rights of the parent with respect to a sibling have been terminated involuntarily.

(5) If reasonable efforts and "contrary to the welfare" judicial determinations are not included as required in the court orders, a transcript of the court proceedings is the only other documentation acceptable to verify that the required determinations have been made.

(6) Neither affidavits nor nunc pro tunc orders will be acceptable as verification

documentation in support of reasonable efforts and "contrary to the welfare" judicial determinations.

(7) Court orders that reference state law to substantiate judicial determinations are not acceptable, even if state law provides that removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal can only be ordered after reasonable efforts have been made.

(8)(A) At any hearing in which the department is ordered by the court to provide services for a family, the court shall provide the department with the opportunity to be heard.

(B) When the department is not a party to the case, failure by the court to provide at least five (5) working days' notice to the department renders any part of the order pertaining to the department void.

(C) Refer to 9 CAR § 40-333 for information related to FINS cases.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-727. Procedure — Case review judicial hearings for children in out-of-home placements.

(a) The Family Service Worker will:

(1) Receive the confirmed court date from the Office of Chief Counsel attorney;

(2) Provide the Office of Chief Counsel attorney with the name and address of any grandparent who is entitled to notice based on the conditions listed in 9 CAR § 40-406, notification of relatives and fictive kin, when a child is taken into custody by the

Division of Children and Family Services and related procedures;

(3) Provide notice to the parties at least fourteen (14) calendar days before the hearing, if the Department of Human Services is the requesting party;

(4) Submit court report to supervisor for review and approval prior to review hearings;

(5) Complete a court report for all review hearings;

(6) Submit the CFS-6011: Court Report to the Office of Chief Counsel attorney within fourteen (14) days prior to the hearing;

(7) Submit the CFS-6024: Permanency Planning Hearing Court Report to the Office of Chief Counsel, CASA, and all parties no later than fourteen (14) days before the scheduled permanency planning hearing;

(8) Document distribution of court reports to all parties or their attorneys and CASA, if applicable via the CFS-423: Certificate of Service;

(9)(A) Make a recommendation to the court to allow visits between siblings and with appropriate relatives if this is in the child's best interest.

(B)(i) Document the recommendation in the CFS-6024: Permanency Planning Hearing Court Report.

(ii) This is only a recommendation.

(iii) Relative visits after TPR must have court approval and cannot continue without court approval;

(10) Invite the out-of-home placement provider to all hearings;

(11) Attend all hearings and be prepared to provide testimony regarding:

(A) Services offered or provided;

(B) Progress; and

(C) Recommendations to the court;

(12) Bring case files to all hearings; and

(13) Discuss orders of the court with the family.

(b) The FSW supervisor will:

(1) Review and approve all court reports prior to review hearings; and

(2) Conference with and support FSW regarding permanency issues related to

the case as necessary.

(c)(1) The court may order progress reports from the service provider whenever a child is placed out-of-home and in a setting other than a department foster home.

(2) The order shall:

(A) Set forth the schedule for the progress reports; and

(B) Identify the service provider responsible for submitting the progress report.

(3) The service provider shall be provided a copy of the written court order by certified mail, restricted delivery, or by process server.

(4) Failure to follow the order of the court shall subject the service provider to contempt sanctions of the court.

(d) The progress report shall include, but is not limited to:

(1) Reason for admission;

(2) Projected length of stay;

(3) Identified goals and objectives to be addressed during placement;

(4) Progress of the child in meeting goals and objectives;

(5) Barriers to progress;

(6) Significant behavioral disruptions and response of provider; and

(7) Recommendations upon the child's release.

(e) The service provider shall immediately report any incidents concerning the juvenile's health or safety to the child’s attorney or attorney ad litem and the custodian of the child.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-728. Interstate compact on the placement of children.

(a)(1) The Interstate Compact on the Placement of Children (ICPC), Arkansas Code § 9-29-201 et seq., is used to move children in need of a foster or preadoptive placement, adoption across state lines, or reunification with parents in an orderly and timely manner.

(2) A child in foster care is defined as a child who has been removed from the home of his or her parent, guardian, or custodian by a court of competent jurisdiction and whose custody has been placed with a private or public agency.

(3) Foster care shall not include placement in a residential facility by a parent if a child welfare agency or court is not involved with the parent or child through an open case or investigation.

(b)(1) When a child requires placement for foster care or a possible adoption outside the resident state, the Division of Children and Family Services shall use the ICPC process.

(2) The Division of Children and Family Services will ensure all potential out-of-state relative placements are given the same opportunity as in-state relative placements to become foster homes.

(3) Homes of relatives approved under the articles of ICPC will be considered approved foster homes.

(4) Unless authorized by the ICPC, all communications with other states regarding approval of placement, progress reports, disruption of placement, or termination of the ICPC case should process through the Arkansas ICPC Central Office to the ICPC liaisons.

(c) For the most up-to-date information regarding ICPC articles and regulations, go to **Error! Hyperlink reference not valid.**https://aphsa.org/AAICPC/default.aspx.

(d) The ICPC process ensures:

(1) Proper extensions of authority into the receiving state;

(2) The sending agency can obtain home studies for proposed placements, is identified as legally and financially responsible, and does not lose jurisdiction once the child leaves the sending state;

(3) The receiving agency can determine the placement is not "contrary to the child's interests" and that all applicable laws and policies have been followed;

(4) Supervision is maintained out-of-state and the sending agency receives progress reports;

(5) Maximum opportunity for each child to be suitably placed;

(6) Proper information to authorities in the receiving state; and

(7) Effective utilization of cross-jurisdictional resources to facilitate timely foster, adoptive, or permanent placements.

(e) Children placed out-of-state are to go through ICPC when one (1) of the following placements occurs:

(1) Foster care placements;

(2) Preadoptive placements;

(3) Adoptive placements; or

(4) Parent, other relative, or nonagency guardian placements.

(f)(1) If guardianship is established as a prelude to a nonrelative adoption, the guardian shall comply with this compact.

(2) If in doubt, request clarification from the Arkansas Interstate Compact Unit in Central Office.

(3) Types of placements that are not covered by ICPC include:

(A) Divorce or custody investigations involving home studies;

(B) Placement of a probationer, parolee, or aftercare juvenile;

(C) Interstate placement of children with mental disabilities;

(D) Placement into a primarily educational institution;

(E)(i) Runaways from Arkansas to another state or to Arkansas from another state.

(ii) See 9 CAR § 40-742 about other compacts;

(F) Kidnapped children transported out-of-state;

(G) Visits that do not extend beyond thirty (30) days and are not preplacement visits; and

(H) Placement outside the resident state when custody will be transferred

to that person.

(g)(1) Division of Children and Family Services caseworkers should not directly contact the ICPC offices in other states, but should direct their communication to the ICPC liaisons in their area.

(2) Liaisons will then communicate with Central Office.

(3) Interstate communication between field staff from the involved states is discouraged, except for the routine sharing of information, which is not related to case approval, progress reports, disruption, or termination of placement.

(4) The juvenile division of circuit court shall retain jurisdiction to issue orders of adoption, interlocutory or final, when a child is placed outside the State of Arkansas.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-729. Responsibilities of the sending state.

The sending party will:

(1)(A) Provide proper notice of the intent to place using the ICPC-100A: ICPC Request and receive authorization from the receiving state prior to the placement.

(B) The 100A must clearly indicate the Division of Children and Family Services is the sending party;

(2) Document in the case file and ICPC packet that potential out-of-state relative placements were offered the option of becoming a paid foster home;

(3)(A) Work with the receiving parties to arrange the placement details (e.g., childcare payment, type of monitoring, frequency of supervisory reports, and transportation) after approval is given.

(B) The sending state shall not recommend that custody be given to the

placement resource without completion of at least six (6) months of supervision and concurrence of the receiving state.

(C) Failure to comply with these requirements violates the terms under which the receiving state originally gave placement approval.

(D) This could result in the child and placement resource being without essential medical coverage and a request for the child to be returned to the sending state;

(4)(A) Provide additional information when requested by the receiving state to ensure the placement is not "contrary to the interests of the child".

(B) Any such report from another state, Indian tribe, or private agency under contract with the receiving state, shall meet all requirements imposed by the sending state for the completion of the home study before placing the child in the home.

(C) This will be done unless, within fourteen (14) days after receipt of the report, the sending state determines based on specific grounds in the report that making a decision based on the report would be contrary to the welfare of the child;

(5) Notify the receiving state of the placement date and any change in the child's status by using the ICPC-100B: Report on Child's Placement Status;

(6) Retain jurisdiction over the child sufficient to determine all matters of custody, supervision, care, and disposition of the child until the child is adopted, reaches majority, becomes self-supporting, or is discharged with concurrence of the appropriate authority in the receiving state;

(7)(A) Retain planning and financial responsibility for the duration of the placement and indicate this responsibility on the ICPC-100A.

(B) The one (1) exception comes under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Pub. L. No. 99-272, requiring that children under Title IV-E adoption assistance agreements and those receiving Title IV-E foster care payments will be granted Medicaid coverage in their current resident state.

(C) See Medical Services Manual, Section 6600 to 6673; and

(8) Return the child to the sending state at the request of the receiving state.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2011"

9 CAR § 40-730. Responsibilities of the receiving state.

Within sixty (60) days after receiving a request for a home study from another state, the receiving state will directly or by contract:

(1) Assess and monitor the placement to ensure compliance with applicable laws and policies of the receiving state, and that the placement is "not contrary to the interests of the child";

(2)(A) Notify the sending state in writing whether the placement is appropriate and in the best interest of the child.

(B) The receiving state is not required to complete those parts of the home study within the designated time period that involve the education and training of the prospective foster or adoptive parents;

(3) Supervise the placement and provide or arrange for necessary services after the child is placed and the ICPC-100B is received;

(4)(A) Submit quarterly progress reports to the sending party.

(B) More frequent reports may be submitted on request; and

(5) Honor and enforce lawful orders of the court of jurisdiction of the sending state unless it conflicts with Arkansas policies and/or laws.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2010"

9 CAR § 40-731. Placing Arkansas children in another state and requesting out-of-state home studies.

(a)(1) The following are procedures to use when requesting an out-of-state home study for an Arkansas child, including placement into residential treatment facilities.

(2) Always use the child's name on the correspondence.

(b) The sending party (county office, etc.) will follow CFS-6092: ICPC Home Study Request Check List and compile an Interstate Compact Placement Packet consisting of three (3) copies of each of the following (include five (5) copies of ICPC-100A):

(1) Cover Letter (CFS-6092: COVER LETTER) to explain the placement plans;

(2)(A) ICPC-100A: ICPC Request.

(B) Retain one (1) copy and include five (5) completed, signed, and dated copies with the packet;

(3) Court order (most recent) showing that the Department of Human Services has custody or the court has jurisdiction of the child (e.g., adjudication order, recent review order);

(4) Termination of parental rights (TPR) for an adoptive home study;

(5) ICPC-101: Priority Home Study Request;

(6) Current case plan (CFS-6010: Case Plan);

(7) Social summary (CFS-6092: SOCIAL SUMMARY) or an adoption summary if requesting a preadoptive placement;

(8) Medical records/reports (PACE evaluation, if available), including immunization records;

(9) School reports/records from the past three (3) years, if applicable;

(10) Psychological evaluations/reports and counseling reports, if applicable;

(11)(A) Financial/medical plan (CFS-592: Financial/Medical Plan Interstate Compact on the Placement of Children).

(B) The form must indicate that the Division of Children and Family

Services is the sending party and will retain financial and planning responsibility for the child;

(12)(A) IV-E eligibility form (print screen of CHRIS foster care determinations window).

(B) Financial arrangements should always be discussed with the prospective placement resource before the home study is requested.

(C) If a board payment is needed, a foster home study must be requested;

(13)(A) Proof of citizenship.

(B) United States birth certificate or other birth records.

(C) If birth records are not available, you can ask if the client has any other citizenship-related documents such as those listed in sections 6700, 6703, and 6705 of the following link:

https://humanservices.arkansas.gov/wp-content/uploads/Medical-Services-Appendices-3.14.24.pdf;

(14)(A) Proof of identity.

(B) A Social Security card, completed application for a duplicate card, or school ID with photo.

(C) (Per the division Eligibility Unit, federal authority will determine other acceptable documents of a child's identity "at a later date"); and

(15)(A) Photo of child or children.

(B) This is not required, but is strongly encouraged.

(c) Send packet to:

ICPC Central Office
Donaghey Plaza South
700 Main Street
P.O. Box 1437, Slot S567
Little Rock, Arkansas 72201-1437

(d)(1) Financial arrangements should be discussed with the prospective placement resource and put in writing before the study is requested.

(2) If a board payment is needed, a foster home study must be requested.

(e) The Arkansas ICPC Central Office will:

(1) Review the packet to determine whether it is complete and ready to forward to the receiving state's ICPC office;

(2) Coordinate with the sending party if changes in the packet are needed;

(3) Send packet to receiving state's compact office; and

(4) Notify sending party of disposition.

(f) The Family Service Worker and/or Area ICPC Liaison will:

(1)(A) Complete and route the ICPC-100B to the ICPC office if the out-of-state placement is approved and made.

(B) Show the date of the placement or of the withdrawal of the request;

(2) Close the Arkansas Medicaid so that Medicaid services can be pursued in the receiving state;

(3) Code the CFS-6013: Application for Emergency Services to show ICPC service using the child's name;

(4) Key the case type in CHRIS as "ICPC" for the child placed by the division in another state;

(5) Notify the Adoption Services Unit of a proposed adoptive placement, if appropriate; and

(6) Coordinate the travel plans with the Family Service Worker if placement is approved (placement must be made within six (6) months of placement approval).

(g) Communication between states regarding approval of placements, progress reports, case closures, and disruptions must go through the Arkansas ICPC Central Office.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "ID" means identification.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2010"

9 CAR § 40-732. Children entering Arkansas for placement.

(a) Services to children should not begin without a completed home study packet, placement approval (ICPC-100A) from the receiving state's ICPC office and receipt of placement notification (ICPC-100B) from the sending state's ICPC office.

(b) Requests from sending state should include the same information as described in the interstate placement packet and outlined in 9 CAR § 40-733.

(c) Contact the Arkansas ICPC Central Office if additional information is needed from the sending state to initiate services.

(d) Supervision of a placement will not begin until the receiving state obtains ICPC-100B.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-733. Completion of home study packet.

(a) The Area ICPC Liaison will:

(1) Ensure the completion of a home study packet which includes:

(A) CFS-316: Request for Child Maltreatment Central Registry Check;

(B) CFS-342: Arkansas State Police Criminal Record Check;

(C)(i) Federal Bureau of Investigation criminal background check.

(ii) A Federal Bureau of Investigation check is only required for foster or adoption home studies.

(iii) Parents and relatives do not need to complete a Federal Bureau of Investigation check;

(D) SAFE Home Study (SAFE Home Studies will be used for all ICPC

placements with the exception of parental home studies); and

(E) Three (3) positive, confidential references;

(2) Obtain the FSW Supervisor or Area Director recommendation for or against placement;

(3) Obtain the Adoption Manager signature for recommendation in an adoption home study;

(4) Send signed recommendation regarding placement within sixty (60) calendar days of a request;

(5) If the criminal record checks have not been received, a copy of the application/request must be included in the packet and the results sent when received;

(6) Notify the ICPC Central Office in writing if there is to be a delay; and

(7)(A) Send the home study packet to the ICPC Central Office, not directly to the other state.

(B) No child shall be placed in the home of a foster parent where a records check reveals a felony conviction for:

(i) Child abuse or neglect;

(ii) Spousal abuse or domestic battery;

(iii) A crime against children (including child pornography); or

(iv) A crime involving violence, including rape, sexual assault, or homicide.

(C) No child shall be placed in the home of a foster parent if the record check reveals a criminal conviction for physical assault, battery, or a drug related offense, if the offense was committed within the past five (5) years.

(D) Any state agency that administers or supervises the administration of a state program operated under such an approved state plan will not be restricted from contracting with a private agency to conduct home studies.

(b) The designated Division of Children and Family Services staff will make a recommendation for or against placement based on the information contained in the home study packet.

(c) The Adoption Manager will sign and date the recommendation in an adoption

home study.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 20-734. Routing of home study packet.

(a)(1) ICPC-approved home study packets are valid for six (6) months from the date the ICPC Central Office signed the ICPC-100A.

(2) The child must be placed within that six-month period.

(b) The Arkansas ICPC Central Office (receiving state) will:

(1) Review the home study packet to determine whether or not it is complete; and

(2) If the home study packet is complete, forward to the sending state's ICPC office.

(c) If Arkansas receives an approved home study from another state, the ICPC Central Office will forward the approved home study and the ICPC-100B to the appropriate ICPC liaison.

(d) The ICPC liaison will forward the approved home study and the ICPC-100A to the assigned caseworker.

(e)(1) The assigned caseworker and/or supervisor will, with the court's concurrence, make a determination as to whether or not placement will be made.

(2) When the determination has been made, an ICPC-100B will be prepared and forwarded to the ICPC liaison.

(3) The liaison will, within seventy-two (72) hours of placement, send it to the ICPC Central Office who will forward to the appropriate state.

(f) If the home study is denied, the ICPC Central Office will process the denied home study request by forwarding a copy of the following to the appropriate ICPC liaison:

(1) The denied home study; and

(2) The ICPC-100A which indicates, in section IV, "placement shall not be made".

(g) The ICPC liaison will forward the documents to the appropriate FSW or supervisor.

(h) The FSW or supervisor will:

(1) File the denied home study and ICPC-100A in the appropriate case file and close the case; or

(2) Appeal the receiving state's denial of the home study by:

(A) Preparing a formal request with available supporting documentation to justify why the home study denial should be appealed;

(B) Forwarding to the immediate supervisor for approval;

(C) If approved, forwarding to the Area Director for approval; and

(D) If approved, forwarding to the ICPC Central Office.

(i) The Arkansas ICPC Central Office will:

(1) Forward a copy of the appeal to the appropriate state's ICPC office for reconsideration of the denied home study; and

(2) If the appeal is denied, the FSW must wait a minimum of six (6) months before reinitiation of the home study.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-735. Follow-up, routing, and monitoring.

The Family Service Worker in Arkansas will:

(1)(A) Provide monthly supervision of the child.

(B) Supervision must include face-to-face visits with the child at least once each month and beginning no later than thirty (30) days from the date on which the child is placed, or thirty (30) days from the date on which the receiving state is notified of the child's placement, if notification occurs after placement.

(C) A majority of visits must occur in the child's home;

(2) Complete a written supervision report, using ICPC-90, at least once every ninety (90) days following the date of the receipt of the ICPC-100B;

(3)(A) Send the reports to the ICPC Liaison every ninety (90) days, or as often

as requested on the ICPC-100A.

(B) The ICPC Liaison will then forward the reports to the ICPC Central Office;

(4)(A) Notify the ICPC Central Office, immediately, if problems or changes with placement occur.

(B) If significant issues of concern are identified during a face-to-face visit or at any time during a child's placement, the receiving state shall promptly notify in writing the ICPC Central Office in the sending state; and

(5) Key the case type in CHRIS as "ICPC" for the child placed in Arkansas from another state.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-736. Travel procedures for children receiving out-of-home placement services.

(a) When an Arkansas child in foster care has been approved to move into or out of Arkansas for a foster care or adoptive placement, or for reunification with parents, the Family Service Worker/Area ICPC Liaison will:

(1)(A) Submit request for travel to ICPC Central Office with "Application for Out-of-State Travel" (DHS-1010) no less than two (2) weeks in advance.

(B) The ICPC Central Office will be responsible for obtaining approvals for the travel;

(2) Make necessary travel arrangements through a travel agency approved by the Department of Human Services; and

(3) Submit ICPC-100B to the ICPC Central Office for forwarding to the receiving state after the child is placed in the receiving state.

(b)(1) When an escort (state employee or nonstate employee) is needed to assist with transporting an Arkansas child in foster care to or from an out-of-state placement, the Family Service Worker or Area ICPC Liaison will submit the same information as stated above for children in foster care travel.

(2) No travel shall commence until the DHS-1010s are signed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-737. Travel not related to the Interstate Compact on the Placement of Children.

(a)(1) Children in foster care may have the opportunity or need to travel for reasons not related to ICPC.

(2) These may include but are not limited to:

(A) Vacationing with their resource family;

(B) An out-of-state visit with a family member; or

(C) Attending a funeral of a family member.

(3) Any travel that promotes a sense of normalcy and/or connection for children in foster care is encouraged, as appropriate for a particular child and in accordance with the reasonable and prudent parent standard (see 9 CAR § 40-814 for more information).

(b)(1) An out-of-state visit is thirty (30) days or less and is not subject to ICPC.

(2) However, if it is greater than thirty (30) days, it is a placement, which is subject to ICPC.

(c)(1) Because the Department of Human Services is the appointed custodian of a child in foster care, the department has the right to consent to the child's travel on vacation or similar trips as per Arkansas Code § 9-27-353(e).

(2) As such, resource parents must have prior written authorization to transport children in foster care for an overnight stay outside the State of Arkansas.

(3) Such requests will be made to the FSW as soon as travel planning begins, and at a minimum of two (2) weeks prior to scheduled travel dates, if possible.

(d) Resource parents will not have to submit a request for out-of-state travel in order to cross the state border when travel plans do not require an overnight stay outside the State of Arkansas (e.g., shopping or visiting with a relative in a nearby town over state lines).

(e)(1) When vacationing as a family, resource parents are encouraged to take any children placed in their home with them.

(2) However, the Division of Children and Family Services will not pay for vacation expenses.

(3) As noted above, travel out of state involving an overnight stay or more requires prior written authorization.

(f) For children placed out-of-state by an Arkansas court and who are not in department custody as the result of a dependency-neglect or dependency case, the sending party is responsible for arranging transportation rather than the department.

(g) For non-ICPC travel of a child in department custody, the Family Service Worker will:

(1) Ensure that all parties to the case are made aware of and have input regarding the child in foster care traveling out of state (e.g., to attend a funeral, go on vacation with a resource parent, attend camp, etc.);

(2) Request prior agency approval, by submitting the DHS-1010 for the child and an escort, as appropriate, to the FSW supervisor who, if approved, will continue to request approval and associated signatures through the following chain of command:

(A) Area Director or designee;

(B) Assistant Director of Field Operations or designee; and

(C) Director of the Division of Children and Family Services or designee; and

(3) Direct requests and questions to the Foster Care Unit.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

9 CAR § 40-738. Progress reports.

The receiving state must:

(1) Send quarterly progress reports every three (3) months unless otherwise stated on the ICPC-100A;

(2) Mail progress reports to ICPC Central Office for forwarding to the sending state; and

(3) Enter the progress reports in the child's case record in CHRIS.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-739. Termination of ICPC cases.

(a)(1) An interstate compact placement can only be terminated with the concurrence of the receiving state ICPC Office.

(2) Reasons for terminating an ICPC placement include the following reasons:

(A) Adoption finalized;

(B) Child reaches age of majority;

(C) Child legally emancipated;

(D) Legal custody returned to parent or parents or given to relative with a court order;

(E) Treatment completed;

(F) Sending state's jurisdiction terminated with the concurrence of the receiving state;

(G) Unilateral termination;

(H) Child returned to sending state;

(I) Child has moved to another state proposed placement request withdrawn; and

(J) Approved resource will not be used for placement.

(b) The Family Service Worker will complete ICPC-100B indicating termination reason and route it to the ICPC Central Office for forwarding to the receiving state.

(c) The Arkansas ICPC Central Office will send the ICPC-100B to the sending or

receiving state's ICPC office to notify them of the closure of the ICPC case.

(d) The sending state is responsible for the original submission of both the ICPC-100A and 100B.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-740. Exceptions to policy.

(a) Items and services not specified in this policy must have prior approval of the Interstate Compact Administrator or Deputy Administrator.

(b) The Family Service Worker/Area ICPC Liaison, with the approval of the Area Director, will:

(1) Write a memo to the Interstate Compact Administrator to fully explain the situation; and

(2) Request that exceptions to policy be made.

(c) The Arkansas ICPC Administrator will:

(1) Review the request; and

(2) Inform the Family Service Worker/Area ICPC Liaison of the decision.

Authority. Arkansas Code § 20-76-201.

9 CAR § 40-741. Request for an Interstate Compact on the Placement of Children Priority Placement Regulation No. 7.

(a) A priority placement is when a court, upon request or on its own motion, or where court approval is required, determines that a proposed priority placement of a child from one (1) state into another state is necessary because placement is with a relative, and:

(1) The child is under four (4) years of age, including other siblings sought to be placed with the same proposed placement;

(2) The child is in an emergency placement;

(3) The court finds that the child has a substantial relationship with the

proposed placement resource; and

(4) An unexpected dependency due to a sudden or recent incarceration, incapacitation, or death of a parent or guardian has occurred.

(b)(1) The receiving state agency has thirty (30) days to complete a request for a priority placement.

(2) Requests for placement shall not be expedited or given priority except as outlined below.

(3) A request for a priority placement will be implemented as follows:

(A) The court shall send its order to the Division of Children and Family Services within two (2) business days;

(B) The order shall include:

(i) The child's name, address, and phone number;

(ii) The fax number of the judge and the court, if available;

(iii) The sending party will send the following to the state's ICPC Central Office via overnight mail, or fax, within three (3) business days;

(iv) The signed court order (the court order must specify how the case qualifies as Regulation No. 7);

(v) A completed ICPC-100A: ICPC Request; and

(vi) Supporting documentation according to policy;

(C) Within two (2) business days after the receipt of the ICPC priority placement request, the sending state's ICPC office will overnight mail the priority request and its supporting documentation to the receiving state's ICPC office with a notice that the request for placement is entitled to priority processing;

(D)(i) The receiving state ICPC office shall send all the documents to the receiving state's local office within two (2) days.

(ii) The receiving state's local office has twenty (20) working days to send a determination back to the receiving state's ICPC office;

(E)(i) The receiving ICPC office has two (2) days to overnight mail the determination to the sending state's ICPC office.

(ii) The sending state ICPC office has two (2) days, through overnight

mail, to send the determination to the local office; and

(F) The foregoing shall not apply if:

(i) Within two (2) business days of receipt of the ICPC priority placement request, the sending state compact administrator:

(a) Determines that the ICPC request documentation is substantially insufficient;

(b) Specifies that additional information is needed; and

(c) Request the additional documentation from the FSW by fax or telephone if fax is not available; or

(ii)*(a)* Within two (2) business days of receipt of the ICPC priority placement request, the receiving state Compact Administrator notifies the sending state Compact Administrator that further information is necessary.

(b) Such notice shall specifically detail the information needed.

(c) For such a case in which either of the two (2) preceding points apply, the twenty-business-day period for the receiving state Compact Administrator to complete action shall be calculated from the date of the receipt by the receiving state Compact Administrator of the additional information requested.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-742. Juvenile, mental health, and adoption and medical assistance compacts.

In addition to the ICPC, three (3) other interstate compacts were enacted to coordinate the interstate placements of children and juveniles as follows:

(1)(A) The Interstate Compact for Juveniles, Arkansas Code § 9-29-401.

(B) This compact is designed to serve those children/youth needing an out-of-state placement who have been adjudicated delinquent and who have been placed on probation or parole.

(C) This compact also provides for the return of nondelinquent runaways, escapees, and absconders.

(D) This includes foster children/youth who run away and are located out-of-state.

(E) The Interstate Compact for Juveniles is administered by the Division of Youth Services;

(2)(A) The Interstate Compact on Mental Health, Arkansas Code § 20-50-101 et seq.

(B) This compact is designed to facilitate the transfer of resident patients (both children and adults) from a state-operated mental health facility in one (1) state to a similar state-operated facility in another state.

(C) The Mental Health Compact is administered by the Division of Aging Adult and Behavioral Health Services; and

(3)(A) The Interstate Compact on Adoption and Medical Assistance, Arkansas Code § 9-29-301.

(B) This compact is for adoption assistance for IV-E eligible children who are under an adoption subsidy agreement.

(C) The adoption worker should notify the Adoption Subsidy Coordinator as soon as it is known that an adoptive family/child is moving out of state or has moved.

(D) The Adoption Subsidy Coordinator will send information to the new state of residence and to the adoptive parents advising them to contact the local Medicaid office in their new state of residence.

(E) This contact will be for the purpose of getting medical benefits for their child in the new state of residence.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-743. Interference with custody.

(a) Interference with custody is committed when a person:

(1) Knowingly and without lawful authority takes, entices, or keeps a minor away from any person entitled by court order or decree to the right of custody of the minor;

(2) Accepts physical custody (for any length of time) of a minor who was removed from their custody or has care, supervision, or custody of a minor removed from their custody pursuant to or arising from a dependency-neglect action;

(3) Who has been awarded custody or granted adoption/guardianship of a minor places the minor in the care of any person from whom the minor was removed or any person whom the court has ordered not to have care, supervision, or custody of the minor; or

(4) Knowingly and without lawful authority takes, entices, or keeps, or aids, abets, hires, or otherwise procures another person to take or entice any minor from the custody of any:

(A) Parent or guardian of the minor, including an unmarried woman with legal custody of an illegitimate child;

(B) Public agency with lawful charge of the minor;

(C) Parent, guardian, or lawful custodian while the custodian and minor are housed at a shelter; and

(D) Any other lawful custodian.

(b)(1) Prior to serving a warrant for arrest on a person charged with interference with custody, law enforcement will inform the Division of Children and Family Services of the circumstances of any minor involved.

(2) The division will provide a representative, upon request, to accompany the arresting officer to take the minor into temporary custody pending further court proceedings.

(c)(1) A court of competent jurisdiction will determine the immediate custodial placement of the minor pursuant to the division's petition.

(2) The court will give immediate custodial placement to the lawful custodian if that person is present before the court.

(3) The court will determine if there is probable cause that the minor may be:

(A) Removed from the jurisdiction of the court;

(B) Abandoned; or

(C) Outside the immediate supervision or care of the lawful custodian.

(d) The division will provide the lawful custodian of a minor notice of any hearing to be held regarding the minor.

(e) The division is immune from liability with respect to any actions undertaken involving interference with custody, unless it is determined that the division acted with malice.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-744. Interference with custody.

The Family Service Worker will:

(1)(A) Accompany the officer arresting an individual for interference with custody.

(B) Take the minor into temporary Department of Human Services custody pending further proceedings from a court of competent jurisdiction; and

(2) Contact an Office of Chief Counsel attorney immediately.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-745. Trust accounts for children in foster care.

(a)(1) The Department of Human Services, Division of Children and Family Services, maintains trust accounts for children in foster care who receive:

(A) Supplemental Security Insurance (SSI);

(B) Social Security Administration Title II benefits;

(C) Child support;

(D) Veterans benefits (VA);

(E) Railroad benefits (RR); or

(F) Worker's compensation.

(2) These benefits will automatically be used to pay for the child's foster care expenses, which include the monthly board payments and contract payments.

(3) The Department of Human Services will apply to become the payee for benefits collected, as appropriate.

(b)(1) The Department of Human Services must monitor accounting for all children in foster care to protect against duplicated funding or other errors.

(2) Monetary payment to resource parents through the division board payment may be adjusted based on the amount of benefits a resource parent receives directly for a foster child.

(3) For details, review 9 CAR § 40-831, financial support to foster parents.

(c)(1) The division must ensure that potential changes in payee are assessed when a child receiving benefits initially enters foster care.

(2) The IV-E/Medicaid Eligibility Unit will screen all the division clients for potential SSI and SSA eligibility, based on information reported on the SSI screening questionnaire completed by the division field staff, and make applications for those who may meet Social Security Administration criteria.

(3) Ultimately, the authorizing agency of the benefits is the decision-making entity regarding payees for SSA and SSI benefits.

(d)(1) The child's trust fund account must not exceed resource limits, to maintain eligibility for Medicaid and Title IV-E.

(2) The division will coordinate the monitoring of trust fund accounts with the Office of Finance, IV-E/Medicaid Eligibility Unit, and other pertinent agencies to ensure the timely and efficient management of these accounts.

(3) Resource limits are:

(A) Two-thousand dollars ($2,000) for Non-IV-E Foster Care Medicaid (category ninety-one (91));

(B) Two-thousand dollars ($2,000) for Foster Care EC Medicaid (category

ninety-six (96)), DDS Waiver Medicaid, Foster Care Spend Down Medicaid (category ninety-seven (97)), and Supplemental Security Income (SSI category forty-five (45)), Long-Term Care Medicaid; and

(C) Ten thousand dollars ($10,000) for Title IV-E.

(e)(1) Authorized uses of different funds vary according to their sources.

(2) However, any expenditure from a child's trust account (in foster care) must be for the direct care or needs of the child in receipt of the income.

(3) Funds cannot be used for siblings, parents, or other individuals in the initial removal home.

(4) Authorized uses are as follows:

(A) Income in a regular account has no restrictions, but spending must be appropriately prioritized according to the child's needs and disability; and

(B) SSI Income in a dedicated account may be used for the following with approval from the Social Security Administration:

(i) Medical treatment;

(ii) Education;

(iii) Job skills training; or

(iv) If they pertain to an impairment:

(a) Personal needs assistance;

(b) Housing modifications;

(c) Special equipment;

(d) Therapy or rehabilitation; or

(e) Other items or services if approved by the Social Security Administration.

(f)(1) When the division Eligibility Unit places a hold for funds on a trust account for a purchase for the youth, those funds will not be held for more than sixty (60) days.

(2) After sixty (60) days, the held funds will be released for other account uses unless an extension is requested and approved.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-746. Educational services for children in out-of-home placement.

(a) **Educational continuity and responsibilities.**

(1)(A) All decisions regarding the education of children in foster care will be based on the best interest of the individual child.

(B) To ensure the continuity of education for children in foster care, the Division of Children and Family Services shall work collaboratively with:

(i) Educators;

(ii) School foster care liaisons;

(iii) Other divisions of the Department of Human Services;

(iv) The Department of Education;

(v) The circuit courts,

(vi) Providers of services to children in foster care;

(vii) CASA;

(viii) Parents;

(ix) Guardians; and

(x) Any person appointed by the court.

(2)(A) The division shall consider the continuity of educational services and school stability when making placement decisions.

(B) As such, the division will make every attempt to maintain the child's enrollment in the school he or she attended prior to placement into foster care and in any subsequent placement moves while in foster care.

(C) To this end, the division shall coordinate transportation issues with the local school district and provide other assistance that is reasonable and practical.

(3)(A) When it is in their best interest, children in foster care shall be moved in a timely manner to a new school.

(B) Except in the case of an emergency, prior to making a recommendation to move a child in foster care from their current school, the division shall provide a written explanation to the following:

(i) The child in foster care;

(ii) The child's attorney ad litem;

(iii) The CASA, if appointed; and

(iv) Parents, guardians, and any persons appointed by the court.

(4)(A) To ensure that children in the custody of the Department of Human Services receive a quality education, it is the division's policy to enroll children in foster care only in schools accredited by the Department of Education.

(B) This requirement also applies to children placed in residential facilities.

(5)(A) It is the responsibility of the division to ensure that children in foster care are afforded educational opportunities, including academic resources, services, and extracurricular enrichment activities in order to help each child in foster care achieve his or her full potential.

(B) Children in foster care shall be held to the same academic achievement standards to which all children are held and be placed in the least restrictive educational placement.

(C) The local county office should be aware of educational resources in the community and across the state so that staff may access these resources for children in foster care.

(6) School districts are required to:

(A) Allow the child to remain in his or her current school unless the court finds that doing so is a conflict with other laws (not residency);

(B) Work out a transportation plan that will allow the child to remain in his or her current school, to the extent reasonable and practical;

(C) Designate a foster care liaison;

(D) Accept credit coursework when the child satisfactorily completes the

appropriate education placement assessment;

(E) Refrain from lowering the grades of a child in foster care because of:

(i) A change in school;

(ii) Absence due to attendance at court-ordered treatment or counseling; and

(iii) Absence due to attendance at dependency-neglect proceedings; and

(F) Immediately enroll any child that has been moved to their district, even if the child does not have his or her school uniform, school records, immunization records, etc.

(7) **Schooling options.**

(A) Children in foster care shall attend public schools.

(B) However, the Director of the Division of Children and Family Services may grant an educational waiver allowing a child to be placed in a nonpublic school, including a private, parochial, or home school if it is in the best interest of the child.

(C) No state or federal funding may be used for such placement.

(D) For a child in foster care to be enrolled in a nonpublic school or be home schooled, a certified mental health professional must present documentation stating that the nonpublic schooling is in the child's best interests.

(E) A child in foster care may receive home-bound instruction as part of their individualized education program (IEP).

(F) Home schooling and home-bound instruction are two (2) different programs.

(G) Home-bound instruction is a planned, time-limited program that is established and provided by the child's school.

(8) If a child is incapable of attending school on a full-time basis due to the medical condition of the child, the reason for which the child is deemed incapable of attending school must be certified by a medical professional and be supported by regularly updated information in the case plan of the child.

(9)(A) If a child in foster care is currently enrolled in a "school improvement"

school as determined by the Department of Education the child's case can be staffed to assess the child's progress at that school.

(B) If the child is progressing at the current school he or she can remain at that school, or the child can transfer to another school if it is in the child's best interest to do so.

(C) The Foster Care Manager will review the Department of Education website quarterly to determine the "school improvement" schools and notify the appropriate County Supervisor of the information.

(10) Each public education agency would be expected to ensure that the rights of a child are protected if:

(A) No parent can be identified;

(B) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(C) The child is a ward of the State of Arkansas under the laws of this state.

(11) If the court transfers custody of a child to the Department of Human Services, the court shall issue an order containing determinations on whether the child's parent or guardian may:

(A) Have access to the child's school records;

(B) Obtain information on the child's current placement, including the name and address of the foster parents or provider; and

(C) Participate in school conferences or similar activities at the child's school.

(b) **Surrogate parent provisions for IDEA.**

(1)(A) If custody of a child is transferred to the Department of Human Services, the court may also appoint an individual to consent to an initial evaluation of the child and serve as the child's surrogate parent under Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., as in effect on February 1, 2007.

(B) If the court orders that the child's parent or parents shall have no involvement in the child's educational planning, the Department of Human Services

shall ask the child's foster parent or appropriate biological relative to act as the surrogate parent.

(C) If the child's parent is a partner in planning and overseeing the child's education as a member of the IEP team, a surrogate parent is not necessary.

(D) The child's parent, if permitted by the court to participate, may request that a family member or the foster parent act as the surrogate parent.

(E) The appointed family member or foster parent will not be required to undergo surrogate parent training and will be discharged once the child's parent is ready to resume involvement.

(F) If the family member or foster parent has not received surrogate parent training and would like to, the Local Education Agency (LEA) Special Education Supervisor or designee can assist in coordinating the surrogate parent training for the foster parent.

(2)(A) If the division is unable to locate the child's parent, the parent or parents are not involved in the case, or the parent's rights have been terminated, the division shall request that the child's foster parent be assigned as the surrogate parent, if appropriate.

(B) If the foster parent has not received surrogate parent training, and would like to, the LEA Special Education Supervisor or designee can assist in coordinating the surrogate parent training for the foster parent.

(3) Transition planning is a required component of the IEP for children sixteen (16) years of age and older.

(4) **Children in foster care special education needs.**

(A) Due to the special education needs of many children who enter foster care, it is necessary to assess and identify educational needs early in the casework process.

(B) A comprehensive health assessment must be completed on each child in foster care within sixty (60) calendar days of removal from home (see 9 CAR § 40-721, comprehensive health assessment and health plan, for children receiving out-of-home placement services).

(C) The comprehensive health assessment includes assessments of cognition/achievement, speech/language development, hearing, vision, medical, emotional, and behavioral development which can be used by the child's school in the process of determining the child's need for services.

(D) The University of Arkansas for Medical Sciences Project for Adolescent and Child Evaluation (UAMS PACE) program is responsible for conducting the comprehensive health assessments and will make recommendations concerning the child's educational needs and referrals for special education services.

(5)(A) The Individuals with Disabilities Education Act (IDEA) states that the Department of Education ensures that all children with disabilities three (3) years of age to twenty-one (21) years of age residing in the state have the right to and availability of a free appropriate public education including children with disabilities who have been suspended or expelled from school.

(B) Free appropriate public education (FAPE) also requires that the services provided to a child with disabilities under this part must address all of the child's identified special education and related service needs.

(C) The services and the change of placement needed by each child with a disability to receive FAPE must be based on the child's unique needs and not on the child's disability.

(D) Each public education agency shall implement child-find requirements to identify, locate, and evaluate all children with disabilities.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2012"

9 CAR § 40-747. Educational services.

(a) If the child is maintained in the same school after entry into foster care, then the Family Service Worker will:

(1)(A) Complete the CFS-362: Medi-Alert immediately when a child is removed and placed out of the home of the parent or legal guardian into foster care or adoptive home or moved to another foster care provider.

(B) Section IX of the Medi-Alert addresses the child's academic status and must be completed upon the child entering care or changing a placement.

(C) Complete Section IX in consultation with the child's parent upon initial placement.

(D) Update Section IX of the CFS-362: Medi-Alert as information becomes available if the parent does not provide needed information at the time of placement;

(2)(A) Use CFS-384 LEA: Notification to Local Education Agency of Changes in Child Placement, Changes in Schools or Experiences of Traumatic Events to notify the school counselor when:

(i) A child enters foster care;

(ii) The Division of Children and Family Services exercises a seventy-two-hour hold on a child;

(iii) A court places a child in the division custody;

(iv) A child has experienced a traumatic event;

(v) The division believes a child has experienced a traumatic event; or

(vi) The division gains knowledge through an investigation or ongoing protective services case that a child has experienced a traumatic event.

(B) Submit the CFS-384: LEA Notification to Local Education Agency of Changes in Child Placement, Changes in Schools, or Experiences of Traumatic Events to the school counselor by the next business day;

(3)(A) Provide the counselor authorization of who can pick the child up from school.

(B) Present the school counselor with the child's court order if the FSW has it.

(C) If the FSW does not have it when accompanying the child to school,

present it to the school once it is received;

(4) Provide guidance to the school counselor on the role of the child's biological parent in the case (i.e., supervised visitation, unable to locate parent, working towards reunification or TPR, parent cannot have access to any foster parent information) and the role of the parent in the education process (i.e., parents will be attending school conferences as part of reunification services, TPR and parents will not be attending conferences);

(5)(A) Share all known information with the school that may impact the health and safety of the child in foster care and all other children in the school.

(B) The school counselor may share any reported information with the child's principal and teachers if appropriate;

(6)(A) Obtain the child's school records from the school counselor for documentation in the child's case record.

(B) The child's school records will also be used to help address the child's educational needs in the case plan.

(C) Provide the University of Arkansas for Medical Sciences Project for Adolescent and Child Evaluation (UAMS PACE) program copies of any school records available to assist in the comprehensive health assessment;

(7)(A) Ensure that the school counselor or designee completes the CFS-397: Educational Assessment within twenty (20) days of child entering care.

(B) The completed form will be added to the comprehensive health assessment for review.

(C) If the child enters care when school is not in session, the CFS-397: Educational Assessment should be sent to the child's school within ten (10) days of the opening of the next school session;

(8)(A) Ensure that the foster parents are given the names of the child's teacher and counselor.

(B) Ensure that the foster parents are involved in the child's education process.

(C) The foster parents must attend all scheduled parent/teacher

conferences and school open houses.

(D) The foster parent will encourage children in foster care in their home to participate in school extracurricular activity and provide transportation to those activities; and

(9) Complete and update, as needed, the medical passport information related to the child's educational needs.

(b) If the child is enrolled in a new school after entry into foster care, then the Family Service Worker will:

(1) Complete each step outlined in the above section;

(2)(A) In one (1) business day, notify the child's old school of the child's transfer to a new school and request copies of the child's school records.

(B) Involve the child's current school in the transfer process if this is a planned move for the child;

(3)(A) Notify the school counselor or designee of the new school via the CFS-384: Notification to Local Education Agency of Changes in Child Placement, Changes in Schools or Experiences of Traumatic Events and enroll the child in the new school within two (2) business days after the move.

(B) Provide the school with copies of any documents that would assist in the child's educational program and have an impact on the child's health and safety.

(C) Provide University of Arkansas for Medical Sciences PACE program with any school records that are available;

(4) When conducting a request of change of placement staffing discuss the impact of the child transferring to a new school if there is a change in placement; and

(5) Notify the parents that a change in schools was necessary if their parental rights have not been terminated.

(c)(1) The FSW will provide the school with the name, address, work phone number, and cell phone number of the County Supervisor.

(2) If the child is suspended from school, the school will contact the resident County Supervisor who will notify the foster parents.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2008"

9 CAR § 40-748. Special education needs service delivery process.

Service delivery process:

(1)(A) The FSW will enroll the child in school and provide the school with copies of any documents that would assist in the child's educational program.

(B) Provide the University of Arkansas for Medical Sciences PACE program with any school records that are available;

(2) The Division of Children and Family Services Health Services Specialist will refer the child in foster care to the University of Arkansas for Medical Sciences PACE program for a comprehensive health assessment (CHA) within three (3) working days of the child entering care;

(3)(A) The FSW will notify the health specialist of all placement changes.

(B) The health services specialist will forward all notifications to University of Arkansas for Medical Sciences PACE program;

(4)(A) University of Arkansas for Medical Sciences PACE Program will obtain a copy of the child's school records via a:

(i) DHS-81: Consent for Release of Information; and

(ii) DHS-4000: Authorization to Disclose Health Information, if the records have not been received from the Family Service Worker.

(B) The child's parent and FSW must sign the DHS-81 and DHS-4000.

(C) The FSW will also send the court order to University of Arkansas for Medical Sciences PACE program indicating that the child is in Department of Human Services custody;

(5)(A) University of Arkansas for Medical Sciences PACE program will forward

the results of the comprehensive health assessment (CHA) to identified division staff.

(B) University of Arkansas for Medical Sciences PACE program will key recommendations from the CHA into CHRIS for division staff access;

(6) The FSW/health specialist will present recommendations for referrals for special education consideration to the school building principal and or local education agency (LEA) special education supervisor or designee;

(7)(A) The FSW will provide the school with the name and address of the child's biological parent or parents, if available, so that the school can send notice of the conference to the parent.

(B) If not appropriate, the division will request the school to appoint a surrogate parent for the child;

(8)(A) If the division is unable to locate the child's parent, the parents are not involved in the case, or the parent's rights have been terminated, the FSW will request that the child's foster parent be appointed as the child's surrogate parent.

(B) The LEA Special Education Supervisor can assist in coordinating the surrogate parent training for the foster parent;

(9) A conference will be scheduled with the appropriate school personnel, the biological parent, and foster parents/surrogate parent, to discuss the child's needs;

(10) The FSW will attend the referral conference; and

(11) The foster parent will be actively involved in the child's educational process and must attend all scheduled conferences and meetings, upon notification by the school and or the division, for children placed in their home.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "PACE" means Project for Adolescent and Child Evaluations.

9 CAR § 40-749. Mental health services for children in foster care.

(a)(1) The Division of Children and Family Services is dedicated to ensuring that all children in foster care receive a full range of healthcare services including mental health

services (assessment and treatment).

(2) All children ages three (3) to eighteen (18) years of age will be referred to a community mental health center (CMHC) within five (5) days of entry into foster care.

(3) Children under three (3) years of age will be referred for mental health services if the need is identified by a physician during the initial comprehensive health assessment or by the Family Service Worker (FSW), legal/biological parent, foster parent, or other involved party.

(b) Urgent (requiring immediate action) or emergent (appearing for the first time) mental health treatment needs identified by the primary care physician (PCP) during the initial health screening (within twenty-four to seventy-two (24-72) hours of entering foster care) shall be referred immediately by the FSW to a CMHC.

(c)(1) Because mental health issues may appear at any time during foster care, the FSW will refer a child for mental health services at any time deemed appropriate during the child's stay in foster care, and immediately, whenever a traumatic event takes place in the life of a child in foster care.

(2) Mental health services include outpatient treatment, inpatient psychiatric residential treatment, and inpatient acute psychiatric treatment (see 9 CAR § 40-755 for a listing of mental health terms).

(d)(1) If a child or his or her family members are already receiving mental health services upon entry into foster care, the Division of Children and Family Services will promote continuity of care by continuing clinically indicated mental health services.

(2) The FSW should encourage cooperation and coordination among service providers as well as encourage the PCP to refer without delay.

(3) While collaboration is essential to promote the best interest of the child, the Division of Children and Family Services retains ultimate case planning and management responsibility for placement and permanency issues.

(4) The FSW will make every effort to expedite access to appropriate documents from previous treatment as this is critical to obtaining authorization of services from the Division of Medical Services (DMS/Medicaid), as well as the quality and timeliness of services.

(e)(1) The Division of Children and Family Services values close family participation in decision making.

(2) Therefore, when a child's permanency goal is reunification, the FSW will ensure that the legal/biological parents are involved in their child's treatment, unless such involvement is not in the child's best interest.

(3) The mental health provider, in collaboration with the Division of Children and Family Services, will determine if it is appropriate for the family to participate in the child's treatment.

(4) Additionally, the FSW will seek to fully engage the foster parents in the child's treatment.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"11/2011"

9 CAR § 40-750. Outpatient mental health services.

(a) The Family Service Worker will:

(1) Refer all children three (3) years of age to eighteen (18) years of age to a CMHC for a mental health assessment and services as indicated, within five (5) days of their entry into foster care;

(2) Refer children younger than three (3) years of age for mental health services when the need is identified by the physician, FSW, a foster parent, a legal/biological parent, or other involved party;

(3) Refer children in foster care with urgent or emergent mental health needs immediately to a local CMHC;

(4) Refer children in foster care for mental health services immediately, whenever a traumatic event occurs in the child's life;

(5) Obtain a PCP referral for outpatient mental health services;

(6) Refer a child in foster care for mental health services anytime the FSW, foster parent, legal/biological parent, etc., deems appropriate;

(7) Document the referral in the medical services screen in CHRIS;

(8) Ensure that the referral to the CMHC is accompanied by the following at the time of the initial referral, or forwarded as soon as they become available:

(A) Authorization for treatment;

(B) A copy of the current court order;

(C) A copy of the medical history; and

(D) A copy of the case history information;

(9) Follow the organization's referral procedures and provide any additional required documentation;

(10) Whenever possible, expedite access to appropriate documents from previous treatment to reduce delay in the authorization of services by the Division of Medical Services;

(11) Ensure adequate and appropriate participation in the assessment process:

(A) Attend, at a minimum, the first appointment with the child to sign consents and facilitate treatment and treatment planning; and

(B) Ensure that the adults who have the most complete information about the child accompany the child to the assessment (e.g., foster parents, legal/biological parents), as appropriate;

(12) Establish a schedule regarding dates for assessment and treatment sessions with the mental health provider;

(13) Remain engaged in the treatment planning process and ongoing care;

(14) Work with the CMHC therapist to ensure adequate and appropriate involvement by the foster parents, biological parents, etc., in the treatment process;

(15)(A) Ensure that adequate information is provided to the physician regarding behaviors, response to medications, side effects, and any other information necessary for the physician to effectively manage medications.

(B) It is the FSW's responsibility to understand why medications are

prescribed, the target symptoms the medications should impact, and both side effects and drug interactions as well as ensure that the foster parents, or responsible adult at the child's current placement, understand these issues;

(16)(A) Along with the foster parent, attend each appointment scheduled with the psychiatrist or physician, if possible.

(B) When necessary, cancel appointments at least twenty-four (24) hours in advance, except in genuine emergency situations such as illness, and reschedule as soon as possible;

(17) Review and sign all master treatment plans and updates; and

(18) Document the child's mental health services in the medical services screen in CHRIS.

(b) The Division of Children and Family Services can expect that the CMHC will:

(1) Offer routine assessment of the child within five (5) working days from receipt of the Division of Children and Family Services referral, receipt of authorization for treatment, and a copy of the court order if applicable;

(2) If a complete psychiatric evaluation is needed, complete the evaluation within forty-five (45) working days;

(3) Evaluate, within two (2) hours, any client who has a psychiatric crisis or an outpatient mental health emergency (See 9 CAR § 40-102, definitions, for definitions) and offer triage/assessment by a mental health professional to the level deemed appropriate;

(4) Make a copy of the emergency assessment available to the Division of Children and Family Services upon completion;

(5) Provide immediate verbal feedback regarding the child's mental health assessment to the FSW;

(6) Provide a copy of the child's written mental health assessment report to the FSW as soon as possible and in every case, within five (5) business days;

(7) Offer counseling (individual, group, and/or family) and/or other appropriate treatment suited to the child's individual needs, if the assessment indicates that mental health services are needed; and

(8) Assist the Division of Children and Family Services in making referrals to other facilities if the CMHC does not have the specialized services required for the child.

(c) Prior authorization requests, diagnostic assessments, master treatment plans, progress notes, and other documentation required by the Division of Medical Services may be utilized to impart information, in lieu of written reports to the Division of Children and Family Services.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"11/2011"

9 CAR § 40-751. Inpatient psychiatric residential treatment.

The Family Service Worker will:

(1) Provide comprehensive and accurate information about the child during the assessment and admission phase to an inpatient residential facility;

(2) Attend the first appointment with the child to sign consents and facilitate treatment and treatment planning;

(3) Whenever possible, expedite access to appropriate documents from previous treatment to reduce delay in the authorization of services by the Division of Medical Services;

(4)(A) Ensure that the adults with the most complete information about the child accompany him or her to the assessment.

(B) This may mean the FSW, foster parents, or legal/biological parents, as appropriate;

(5) Update the treatment team on changes of custody status and/or discharge plans;

(6) Take timely action to ensure the continuity of the PCP's referral;

(7) Once the child has been admitted to a residential facility, collaborate with the facility in the development of the plan-of-care:

(A) Establish a schedule regarding dates for treatment sessions with the inpatient residential provider;

(B)(i) Remain engaged in the treatment process and determine with the therapist at the beginning of treatment the degree and methods of engagement (e.g., phone, conversation, written reports, conferences).

(ii) At a minimum, the FSW must maintain weekly phone contact with the child and document contact in CHRIS;

(C) Ensure discharge planning begins at the time of admission and continue involvement in that planning;

(D) Ensure contact between the child and the appropriate adults; and

(E) Determine in coordination with the therapist, which adults, if any, need to be involved in the child's treatment, including family therapy sessions;

(8)(A) Attend each appointment scheduled with a psychiatrist or physician.

(B) Review and sign all master treatment plans and updates;

(9) Obtain a copy of the child's records including:

(A) Assessments;

(B) Treatment plans;

(C) Updates; and

(D) Discharge plan; and

(10) Coordinate after-care plans from the inpatient residential facility:

(A) Facilitate a timely discharge by identifying specific placement plans as early as possible to promote a positive transition from one level of care to another;

(B) Coordinate with the CMHC or other contracted outpatient provider before, during, and immediately following discharge from an inpatient residential facility;

(C) When appropriate, participate in a child and adolescent service system program (CASSP) staffing to complete a multiagency plan of service (MAPS) plan;

(D) When appropriate, participate in a system of care team meeting to

complete a wraparound plan;

(E) Obtain an outpatient appointment within seven (7) working days following discharge from an inpatient residential facility;

(F) Obtain a PCP referral to an outpatient provider if needed; and

(G)(i) Ensure compliance with all scheduled outpatient appointments.

(ii) When necessary, cancel appointments at least twenty-four (24) hours in advance, except in genuine emergency situations such as illness, and reschedule as soon as possible.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"11/2011"

9 CAR § 40-752. Inpatient acute psychiatric treatment.

(a) The Family Service Worker will:

(1) Make a referral to the CMHC when a child needs mental health services (including any twenty-four-hour services);

(2) In the case of an emergency, contact the CMHC immediately for an assessment; and

(3) If the CMHC assessment indicates that the child needs acute psychiatric services, contact the county supervisor, or designee.

(b) The County Supervisor or designee will:

(1) Contact the Administrator On-Call at 501-538-7960 to obtain prior approval before a child is placed;

(2)(A)(i) Provide the Administrator On-Call with the information listed below.

(ii) The information may be conveyed by telephone but is also required via email the following business day.

(B)(i) An assessment by a licensed mental health professional from the local CMHC that recommends acute psychiatric services as the least restrictive level of care that can meet the child's needs.

(ii) This recommendation should include a preliminary mental health diagnosis.

(iii) If child is in a therapeutic foster home, a licensed mental health professional employed by the TFC provider may perform the mental health assessment and provide recommendation for acute inpatient services.

(C) Description of current behavior, emotional condition, and any precipitating events that could have contributed to the current condition of the child.

(D) Current medications and purpose for the prescriptions.

(E) Information about current placement and reasons the child cannot remain in that placement.

(F) Reason that outpatient evaluation, crisis intervention services, and community supports cannot meet the current needs.

(G) History of mental health services provided for the child and his or her family, including both outpatient and inpatient.

(H) Any other information deemed helpful in determining a disposition on the level of services needed; and

(3) Inform the Area Director of the administrative case consultation and disposition within twenty-four (24) hours.

(c) If the Family Service Worker is approved to make a referral, he or she will:

(1) Provide comprehensive and accurate information about the child during the assessment and admission phase to the acute psychiatric treatment program;

(2)(A) Attend the first appointment with the child to sign consents and facilitate treatment and treatment planning.

(B) Whenever possible, expedite access to appropriate documents from previous treatment to reduce delay in the authorization of services by the Division of Medical Services;

(3)(A) Ensure that the adults with the most complete information about the

child will accompany the child to the assessment.

(B) This may mean the FSW, foster parents, or legal/biological parents, as appropriate;

(4) Update the treatment team on changes of custody status and/or discharge plans;

(5) Take timely action to ensure the continuity of the PCP's referral;

(6) Once the child has been admitted to an acute psychiatric treatment program, collaborate with the facility in the development of the plan-of-care:

(A) Establish a schedule regarding dates for treatment sessions with the inpatient acute treatment provider;

(B)(i) Remain engaged in the treatment process and determine with the therapist at the beginning of treatment the degree and methods of engagement (phone, conversation, written reports, and conferences).

(ii) At a minimum, the FSW must maintain weekly phone contact with the child;

(C) Ensure discharge planning begins at the time of admission and continue involvement in that planning;

(D) Ensure contact between the child and the appropriate adults; and

(E) Determine in coordination with the therapist, which adults, if any, need to accompany the child to treatment and/or be involved in the child's treatment, including family therapy sessions;

(7) Attend each appointment scheduled with a psychiatrist or physician;

(8) Review and sign all master treatment plans and updates;

(9) Obtain a copy of the child's records including:

(A) Assessments;

(B) Treatment plans;

(C) Updates; and

(D) Discharge plan;

(10)(A) Make contact with the child's clinical treatment team three to five (3-5) times per week.

(B) This includes the primary therapist, case manager, and/or any other person on the clinical treatment team, in order to obtain information related to:

(i) The child's progress;

(ii) Medications management and changes;

(iii) Recommendations for discharge planning; and

(iv) Other information that pertains to the child's treatment; and

(11) Coordinate after care plans from the acute psychiatric treatment program:

(A) Facilitate a timely discharge by identifying specific placement plans as early as possible to promote a positive transition from one level of care to another;

(B) Coordinate with the CMHC or other contracted outpatient provider before, during, and immediately following discharge from an acute psychiatric treatment program;

(C) When appropriate, participate in a CASSP staffing to complete a MAPS plan;

(D) When appropriate, participate in a system of care (SOC) team meeting to complete a wraparound plan;

(E) Obtain an outpatient appointment within seven (7) working days following discharge from an inpatient facility;

(F) Obtain a PCP referral to an outpatient provider if needed; and

(G)(i) Ensure compliance with all scheduled outpatient appointments.

(ii) When necessary, cancel appointments at least twenty-four (24) hours in advance, except in genuine emergency situations such as illness, and reschedule as soon as possible.

(d)(1) If the FSW is not approved to make a referral, a temporary crisis plan will be implemented by the FSW and County Supervisor or designee in collaboration with the Administrator On-Call.

(2) The crisis plan will involve other interested parties, such as foster parents, legal/biological parents, the CMHC, and any others involved in the care of the child.

(3) The crisis plan will be documented within twenty-four (24) hours and communicated to all involved parties.

(4) Parts of the crisis plan may be incorporated into the child's case plan as necessary.

(5) The crisis plan may include, but is not limited to, the following services and supports:

(A) Twenty-four-hour respite;

(B) No-harm contract with the child;

(C) Increased frequency of mental health services;

(D) Medication changes;

(E) Local phone numbers for emergency response to escalating behavior;

(F) Behavioral interventions appropriate for the child's diagnosis and symptoms; and

(G) Safety plan.

(e)(1) If the FSW, county supervisor, or foster parent feel that the child poses an immediate threat to himself or herself or others, the child should be taken to the nearest emergency room for evaluation by a physician and a request should be made for an immediate assessment by the local CMHC for information that the Division of Children and Family Services can use to determine the most appropriate placement.

(2) The administrative case consultation is still required if the child is to be referred to an inpatient facility.

(f) The Division of Children and Family Services can expect that the CMHC will:

(1) Evaluate within two (2) hours any client who has a psychiatric crisis or an outpatient mental health emergency (see 9 CAR § 40-102, definitions, for definitions) and offer triage/assessment by a mental health professional to the level deemed appropriate;

(2) Assist the Division of Children and Family Services in making appropriate referrals to other facilities if the CMHC does not have the specialized services required for the child;

(3) Assist in securing appropriate mental health services in the Division of Children and Family Services area;

(4) Assign a mental health clinician to coordinate mental health treatment for

the child, including but not limited to coordination with other agencies, convening staffings, or assisting with the location of a twenty-four-hour mental health placement;

(5) Work with the Division of Children and Family Services to ensure that mental health services complement case planning, management, and the wraparound plan and/or MAPS plan; and

(6) Share information about past treatment and coordinate treatment services/discharge plans with inpatient/residential provider, providing the appropriate consent forms have been signed.

(g) The Division of Children and Family Services retains ultimate case planning and management responsibility for placement and permanency issues.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"11/2011"

9 CAR § 40-753. Ongoing treatment.

(a) The Family Service Worker will:

(1) Forward copies of all critical information that was not available at the time of the initial referral as it becomes available;

(2) Keep the mental health professional informed of any changes in the child's case or placement;

(3) Coordinate all casework with the mental health provider;

(4) Consult the mental health provider regarding permanency-planning decisions, in order to protect the child while engaging the family in a clinically appropriate manner;

(5) Invite the child's mental health professional to attend or otherwise participate in the Division of Children and Family Services staffings;

(6) Provide a copy of the court order to the CMHC once the child has been discharged from Department of Human Services custody;

(7) Communicate with any other department divisions or contracted providers who are involved in the case;

(8) Communicate with the child's school regarding the child's treatment, needs, and progress;

(9) Invite school personnel to attend staffings, case conferences, and family-centered meetings, as appropriate;

(10) Document in the child's case plan in CHRIS if the child is receiving school-based mental health treatment;

(11) Document details about any responsibilities the mental health provider has regarding coordination of services;

(12) Arrange a staff meeting within forty-eight (48) hours to discuss what services and assistance are needed to stabilize the foster placement when foster parents have requested that a child in foster care be removed from their home; and

(13) Request that the licensed mental health professional from the CMHC or private mental health provider who is treating the child attend or otherwise participate in the required staffing to discuss removal of the child in foster care and options to support the placement.

(b) The division can expect that the CMHC will:

(1) Assign a mental health professional to coordinate mental health treatment for the child, including but not limited to coordinating with other agencies, convening staffings, or assisting with the location of twenty-four-hour mental health placement, when needed;

(2) Work with the division to ensure that mental health services complement case planning and management;

(3) Make coordination services available after regular work hours;

(4) Make the recommendation for the most appropriate disposition with regard to medical necessity;

(5) Assist in securing appropriate mental health services in the area; and

(6) Coordinate the mental health services being delivered by the mental health provider with the FSW.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"11/2011"

9 CAR § 40-754. The Division of Children and Family Services/CMHC collaboration.

(a)(1) The Division of Children and Family Services will work with their local, designated community mental health centers to ensure adequate mental health services are available to meet the needs of children and families.

(2)(A) The Division of Children and Family Services Area Directors are responsible for working with the CMHC directors and staff to establish an oversight process.

(B) The oversight process should include:

(i) A review of current services and quality improvement measures;

(ii) An identification of problem issues or barriers; and

(iii) Methods to resolve any issues or barriers.

(b) The Area Director will hold an individual meeting, at least annually, with each CMHC in their area to:

(1) Review the current status of the mental health services system for the area;

(2) Identify barriers to implementation of mental health services; and

(3) Develop a plan to address the identified barriers in provision of services.

(c) If CMHC staff believes that the Division of Children and Family Services staff is not ensuring appropriate referrals and involvement in treatment, they will:

(1) Attempt to resolve the issue with the appropriate the Division of Children and Family Services county supervisor; and

(2) If the issue cannot be resolved at the county level, contact the appropriate Area Director.

(d) If the Division of Children and Family Services staff believes that CMHC staff are not providing adequate services, they will:

(1) Attempt to resolve the issue with the CMHC Children's Services Director or other designated staff at the CMHC; and

(2) If the issue cannot be resolved, contact the CMHC Director.

(e) If an issue cannot be resolved through the aforementioned processes, the parties will contact the following senior staff to resolve the issue:

(1) The Division of Children and Family Services Assistant Director of Field Operations;

(2) Division of Aging Adult and Behavioral Health Services Assistant Director for Children's Services; and

(3) The Division of Children and Family Services Mental Health Specialist.

(f)(1) The Community Mental Health Centers and the Division of Children and Family Services operate independently of each other.

(2) All employees are expected to function in a manner that will not create any conflicts of interest.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"11/2011"

9 CAR § 40-755. Mental health policy terms.

The Family Service worker will know and understand the following terms:

(1)(A) Crisis intervention-emergency short-term treatment services aimed at assisting individuals in a crisis situation experiencing a psychiatric or behavioral crisis.

(B) These services are designed to stabilize the person in crisis, prevent further deterioration, and provide immediate indicated treatment in the least restrictive setting;

(2)(A) Mental health/diagnostic assessment.

(B) The cultural, developmental, age and disability, relevant clinical evaluation, and determination of a beneficiary's mental status.

(C) Functioning in various life domains.

(D) An axis five (5) DSM diagnostic formulation for the purpose of developing a plan of care;

(3)(A) Discharge plan.

(B) Activities that facilitate a patient's movement from one (1) healthcare setting to another, home, or other placement in the community.

(C)(i) It is a multidisciplinary process involving physicians, nurses, social workers, and possibly other health professionals.

(ii) Its goal is to enhance continuity of care.

(D) The discharge begins on admission in higher levels of care and continues throughout the treatment process;

(4)(A) Inpatient acute psychiatric treatment.

(B) Short-term treatment designed to stabilize patients with significant behavioral health issues and begin the therapeutic process in a safe, supportive environment.

(C) This level of care is to be utilized only in circumstances when the client cannot be safely treated in a lesser restrictive environment;

(5)(A) Inpatient psychiatric residential treatment.

(B) Treatment for a psychiatric condition that is typically three (3) to six (6) months in a facility using multidisciplinary approaches to return to a level of functioning that allows the client to return to community.

(C)(i) The client should participate in individual, group, and family therapy

in addition to attending educational classes.

(ii) The length of stay should only be as long as necessary to move the client to a lesser restrictive level of care;

(6)(A) Psychiatric crisis.

(B) Behavioral health issues that are sudden in onset, requiring:

(i) Immediate assessment;

(ii) Crisis intervention; and

(iii) Emergency treatment.

(C) A psychiatric crisis includes suicidal or homicidal thoughts with a valid plan of intent, psychosis, or loss of ability to understand and interpret reality;

(7)(A) Master treatment plan.

(B) Written document that outlines specific goals, objectives, and interventions to address problems and issues related to the client's diagnosis, as identified in a diagnostic assessment;

(8)(A) Temporary crisis plan.

(B) Clearly defined steps crafted in advance that detail how to manage a crisis when it occurs;

(9)(A) Treatment team.

(B) Group of professionals that work together to treat mental disorders.

(C) Treatment team members may include but are not limited to:

(i) Psychiatrists;

(ii) Psychologists;

(iii) Therapists;

(iv) Mental health technicians;

(v) Case managers; and

(vi) Social workers; and

(10)(A) Wrap around plan.

(B) A course of action identified by a wrap around team that includes local services and natural supports necessary to reduce out-of-home, school, or community placements for families, children, and youth with moderate to severe mental health

needs.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"11/2011"

9 CAR § 40-756. Interdivisional staffings at the Child Case Review Committee.

(a) **Interdivisional staffings.**

(1)(A) When a youth is receiving services from the Department of Human Services and has serious and complex needs that make placements difficult, a caseworker can refer the youth for an interdivisional staffing.

(B) The purpose of an interdivisional staffing is threefold:

(i) To improve treatment/case planning to more appropriately address the youth's needs;

(ii) To provide assistance and support to the Division of Children and Family Services field staff, direct services staff, and other stakeholders involved with the youth and family; and

(iii)*(a)* To attempt to resolve the youth's issues before referring him or her to the Child Case Review Committee (CCRC).

(b) An interdivisional staffing must take place before a CCRC is held.

(2) Youth referred for interdivisional staffings include, but are not limited to, youth who:

(A) Are in Department of Human Services custody and have significant trouble being placed due to multiple, more serious and/or complex needs or who are at risk of coming into Department of Human Services custody due to multiple, more

serious, and/or complex needs;

(B) Have cases needing clarification as to which Department of Human Services division has primary responsibility for the case; and/or

(C) Have cases needing intensive coordination between Department of Human Services divisions, service providers, and/or other community partners in order to connect the youth with appropriate services and supports in an effort to help youth reach permanency.

(3) An interdivisional staffing is comprised of the following individuals:

(A) A representative from the following Department of Human Services divisions:

(i) The Division of Children and Family Services;

(ii) The Division of Youth Services;

(iii) The Division of Medical Services;

(iv) The Division Developmental Disabilities Services;

(v) The Division of Aging Adult and Behavioral Health Services; and

(vi) The Office of Chief Counsel;

(B) A representative of the Department of Education, Special Education Unit (as needed); and

(C) Specialized Placement Unit (SPU) Manager, whose responsibilities include:

(i) Coordinating the interdivisional staffings;

(ii) Managing contract; and

(iii) Providing technical assistance.

(4) Additional interdivisional staffing participants may include:

(A) Division of Children and Family Services representatives who act as referral coordinators within their agencies;

(B) The designated caseworker for the youth and family;

(C) Appropriate service providers; and/or

(D) Other stakeholders needed to develop a suitable plan of service to meet the youth's needs (e.g., parents/relatives, attorney ad litem, CASA, etc.).

(b) **Child Case Review Committee.**

(1)(A) If an interdivisional staffing does not result in finding appropriate services and supports for the youth within Arkansas, then a Child Case Review Committee (CCRC) shall be called.

(B) The CCRC serves as the gatekeeper for out-of-state placements for youth receiving services from the Department of Human Services.

(C) The CCRC is only for out-of-state placements.

(D) Before a case can be reviewed by the CCRC, the case must first be reviewed in an interdivisional staffing.

(E) The SPU Manager serves as the CCRC Coordinator.

(2) Youth referred to CCRC include, but are not limited to, youth who:

(A) Are in Department of Human Services custody and have significant trouble being placed due to multiple, more serious and/or complex needs;

(B) Have cases that, despite coordination between Department of Human Services divisions, cannot be assigned as the primary responsibility of one (1) particular division;

(C) Have accessed appropriate in-state resources, but have not had measurable success with those resources;

(D) Have identified needs that cannot be met by the available resources in Arkansas; and

(E) Are recommended to receive treatment out-of-state.

(3) The CCRC is comprised of the following members:

(A) Secretary of the Department of Human Services (chair) or designee;

(B) The directors or designees of the following Department of Human Services Divisions:

(i) The Division of Children and Family Services;

(ii) The Division of Youth Services;

(iii) The Division of Medical Services;

(iv) The Division of Developmental Disabilities Services;

(v) The Division of Aging Adult and Behavioral Health Services; and

(vi) The Office of Chief Counsel;

(C) A representative of the Department of Education, Special Education (as needed); and

(D) CCRC Coordinator (Specialized Placement Unit Manager), whose responsibilities include:

(i) Coordinating the CCRC meetings;

(ii) Managing contracts; and

(iii) Providing technical assistance.

(4) Additional committee members may include:

(A) Division representatives who act as referral coordinators within their agencies;

(B) The designated caseworker for the youth and family;

(C) Appropriate service providers; and

(D) Others needed to develop a suitable plan of service to meet the youth's needs.

(5)(A) The SPU Manager will notify divisions when they have a case on the agenda.

(B) Each committee member is expected to attend the meeting or send a designee with the authority to make decisions for their division.

(C) Decisions will be made by majority vote with the chair breaking any tie votes.

(D) Dates will be established for the CCRC to be updated on the status of the plan implementation.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2014"

9 CAR § 20-757. Interdivisional staffing referral.

(a) When any local divisional staff member becomes aware of a youth who meets the criteria for referral to an interdivisional staffing he or she will:

(1) Contact the County Supervisor, the Area Director, and, where available, the designated Placement Specialist for the area to discuss the youth's needs and verify whether an interdivisional staffing referral is appropriate;

(2) If the referral is deemed appropriate at the local level, the divisional staff member will contact the Specialized Placement Unit Manager in Central Office for approval; and

(3) If the referral is approved by the SPU Manager, completed CFS-302: Interdivisional Staffing Summary Form which will be presented during the interdivisional staffing.

(b) Additionally, if the referral is determined to be appropriate for an interdivisional staffing, the Specialized Placement Unit Manager will:

(1) Place the case on the agenda for the next interdivisional staffing which shall occur at least monthly; and

(2) Advise the division's contact person which people need to attend or be available by conference call for the staffing.

(c) If the referral is determined to be inappropriate, the Specialized Placement Unit Manager will provide guidance to the county office regarding other potential next steps.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2014"

9 CAR § 40-758. Child Case Review Committee (CCRC) referral.

(a) If the case has already been reviewed by an interdivisional staffing that did not resolve the youth's presenting issues within the state and the referral is determined to be appropriate for the CCRC, the Specialized Placement Unit Manager will:

(1) Request the referring county to prepare the CCRC referral packet (see below for more information);

(2) Place the case on the agenda for the next CCRC meeting (CCRC meetings are scheduled on an as-needed basis but shall be scheduled within two (2) weeks of receipt of referral); and

(3) Advise the Division of Children and Family Services contact person which people need to attend or be available by conference call for the CCRC meeting.

(b) The Family Service Worker will:

(1) Prepare and submit the referral packet which will include:

(A) Cover memo stating:

(i) Family Service Worker's name and title, phone and fax numbers, and supervisor's name;

(ii) Youth's name, age, legal status, and current location;

(iii) Concise paragraph detailing the reasons for referring the youth for out-of-state placement and when the placement is needed; and

(iv) Youth's last/current placement and an explanation for the removal;

(B)(i) Completed CFS-302: Interdivisional Staffing/Child Case Review Committee (CCRC) Form.

(ii) A new one does not need to be completed.

(iii) The CFS-302: Interdivisional Staffing/Child Case Review Committee (CCRC) submitted for prior interdivisional staffing may be resubmitted unless there is new information to be included; and

(C) Completed CFS-303: Out of State Placement Request;

(2) Attend (or ensure other key staff who are knowledgeable about all aspects of the case attends) the CCRC meeting to present details of the case and answer questions;

(3) Remain responsible for regular follow-up regarding the out-of-state placement if the CCRC approves the out-of-state placement in order to best meet a youth's needs; and

(4) Submit monthly updates regarding the youth's out-of-state placement and progress to the SPU Manager.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2014"

9 CAR § 40-759. Medicaid and financial issues.

(a) Before a youth is placed in an out-of-state treatment facility due to an emotional disturbance, the Office of Chief Counsel will make and document the following determinations as required by Arkansas Code § 20-46-106 via CFS-303: Out of State Placement Request, which will then be reviewed with the SPU Manager.

(b) If a youth in Department of Human Service custody is placed in an out-of-state placement without proper documentation or CCRC authorization as outlined above, Medicaid will not approve a certification of need (CON) and authorization to pay the provider/facility for services will be refused.

(c) The information collected by the above determinations shall be included in the youth's case file.

(d) The information shall be reviewed and considered by the juvenile judge.

Authority. Arkansas Code § 20-76-201.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2014"

9 CAR § 40-760. Legal counsel for children in foster care.

(a)(1) The Division of Children and Family Services may secure legal counsel for children in foster care in connection with legal actions and proceedings of which they are a part during their foster care experience.

(2) This includes but is not limited to fair hearings involving Medicaid or Social Security, administrative hearings to represent the child as an alleged offender of child maltreatment, Special Immigrant Juvenile Status (SIJS) applications, wrongful death, medical malpractice, probate and estate matters, contract issues, and school matters for division cases.

(b) The division will not secure legal counsel for a child who is not in Department of Human Services custody at the time of the hearing, regardless of whether the child was in department custody at the time the offense was committed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2008"

9 CAR § 40-761. Making referrals to secure legal counsel.

The following steps are to be followed during the referral process:

(1)(A) The person making the referral (e.g., field staff, supervisor, Area Director) will send the request via email to the Director of the Division of Children and Family Services.

(B) The request must include the:

(i) Child's name;

(ii) County responsible; and

(iii) Reason for the referral;

(2) The Special Assistant to the Director will review the referral and, if accepted, forward to the attorney via email; and

(3)(A) The Special Assistant to the Director will notify the person making the referral and the Area Director of the decision via email within ten (10) working days of receiving the request.

(B) If the child is involved in an administrative proceeding, fair hearings will send a notice to provide an attorney directly to the special assistant to the director, who will send a copy of the notice via email to the Area Director.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2008"

9 CAR § 40-762. Therapeutic foster care.

(a)(1) Therapeutic foster care (TFC) is a specialized form of foster care that provides a wraparound plan for children who need more intensive case management to meet their individual needs.

(2) TFC is a family-based service delivery approach supported by licensed mental health professionals, as recognized by Arkansas Medicaid, that provides individual treatment for children, youth, and their families.

(3) Therapeutic foster parents are specially trained and more intensively supervised and supported to help them care for children with more complex needs.

(4) Children may need TFC as a result of disruptive behaviors, mental health issues, true findings of sexual abuse, or numerous unsuccessful placements.

(5) In addition to a Division of Children and Family Services Family Service

Worker, each child in a therapeutic foster home is assigned a case manager who is active in the child's daily life through more frequent visits, medication management, therapy, etc.

(6) The goal of therapeutic foster care is to stabilize children in their communities so they can achieve permanency through reunification with parents or relatives or through adoption.

(b)(1) The division contracts for therapeutic foster care with licensed providers across the state.

(2) All referrals for TFC will go through the Specialized Placement Unit (SPU) to ensure that placement is in a child's best interest and, if possible, that a child remains close to his or her home county.

(3) A referral does not guarantee placement as TFC may not be appropriate for every child.

(4) Additionally, a child may be placed on a waiting list until the provider can secure an appropriate placement.

(c)(1) A foster home may not be both a TFC foster home and a division foster home.

(2) However, a foster child not requiring TFC may be placed into a TFC foster home only in the following circumstances:

(A) He or she is a sibling of a child in the TFC foster home;

(B) He or she is a child of a youth in the TFC foster home; and

(C) He or she had previously been receiving TFC services in that TFC home.

(d)(1) Before placing a foster child not requiring TFC services into a TFC home with a child receiving TFC services, the potential risk to all children shall be considered.

(2) Justification of the appropriateness of the placement shall be documented.

(e) If a TFC foster home wishes to become a division foster home, all applicable minimum licensing standards and division policy requirements must be met by the foster home.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2011"

9 CAR § 40-763. Referrals for therapeutic foster care.

(a) If the Family Service Worker believes TFC to be the most appropriate placement for a child, he or she will:

(1) Complete CFS-367: Specialized Placement Referral Form;

(2) Email the completed CFS-367: Specialize Placement Referral Form to tfc.referral@dhs.arkansas.gov; and

(3) Retain a paper copy of the CFS-367: Specialized Placement Referral Form in the child's case file.

(b) If the child is accepted into a TFC placement, the Family Service Worker will:

(1) Forward additional required documents to the provider, as requested;

(2) Continue to maintain the child's case file while he or she is in TFC; and

(3) Coordinate a monthly visit with the TFC case manager to assess the health and safety of the child placed in the TFC home.

(c) The Specialized Placements Unit Manager will:

(1) Review the completed CFS-367: Specialized Placement Referral Form for appropriateness;

(2) Forward appropriate referrals to the TFC providers; and

(3) Notify the FSW if the child is accepted into the TFC program.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-764. Therapeutic foster home transitioning to DCFS foster home.

(a) In the event that a current TFC foster home wishes to become a Division of Children and Family Services foster home, the Resource Worker will:

(1) Request a referral on the family from the TFC provider;

(2)(A) If the referral is positive, ensure that all required Division of Children and Family Services background checks (i.e., Child Maltreatment Central Registry check, Adult Maltreatment Central Registry check, Division of Arkansas State Police criminal record check, Federal Bureau of Investigation background check, and vehicle safety check) are in place and current.

(B) Complete appropriate CHRIS screens (see Procedure VII-C1);

(3) Once background checks have been verified, conduct an in-home consultation visit (see Procedure VII-C2) with the family;

(4) Verify that the family has completed:

(A)(i) Preservice training with the TFC provider.

(ii) If the family did not complete preservices training with the TFC provider, refer the family to MidSOUTH for preservices training upon successful completion of all background checks and the in-home consultation visit (see Procedures VII-C3: Initiation of Pre-Service Training and VII-C4: Pre-Service Training);

(B)(i) CPR and standard first aid certification.

(ii) First Aid and CPR training and certification will only be accepted from a certified trainer associated with the:

(a) American Heart Association;

(b) National Safety Council; or

(c) American Red Cross.

(iii) First aid training provided through the National Safety Council must be the standard first aid, not basic first aid.

(iv) If the family does not have current CPR and standard first aid certification, assist the family in accessing appropriate training; and

(C)(i) Fifteen (15) hours of continuing education related to fostering within the past calendar year.

(ii) If the family has not earned fifteen hours (15) hours of continuing

education within the past calendar year, they are responsible for obtaining the remaining hours.

(iii) However, the time spent during the in-home consultation visit and orientation may count toward the fifteen-hour continuing education requirement;

(5) If the family will not be attending preservice training, ensure that the individual conducting the home study receives the completed SAFE questionnaire I;

(6) Arrange for a SAFE home study to be completed on the family (see Procedure VII C-5: Home Study);

(7) If the family's SAFE home study is approved, ensure that:

(A) The CFS-475: Initial Checklist for Foster/Adoptive Home Assessment is completed, that any safeguard measures deemed necessary have been implemented; and

(B) Any requested alternative compliances or policy waivers have been approved;

(8) Invite the County Supervisor to accompany them on the final face-to-face visit and final visual inspection of the home;

(9) Conduct a final face-to-face visit with the prospective foster parents and a final visual inspection of the home (preferably with the County Supervisor);

(10) Provide the family with an approval packet;

(11) Review the Division of Children and Family Services approval packet which includes:

(A) Stamped envelopes addressed to the appropriate county office;

(B) Examples of the completion of travel documentation that must be submitted monthly;

(C) Copy of the Code of Ethics;

(D) Copy of the Arkansas Practice Model;

(E) CFS-381: Training Record Log;

(F) Medication log;

(G) Child inventory log;

(H) Fire drill log;

(I) CFS-352: Medical, Dental, Vision, Hearing, and Psychological Episodic Visits;

(J) After hours contact sheet;

(K) Foster Care Board sheet; and

(L) Appropriate Foster Parent Association contact information;

(12) Complete the CFS-462: Initial Foster Family Agreement with the family;

(13) File the CFS-462: Initial Foster Family Agreement in the foster home record; and

(14)(A) Enter a disposition as to the approval/denial of the foster home within three (3) working days of receipt of the Area Director's approval or denial.

(B) If the recommendation is approval, then:

(i) If the orientation has not already taken place, schedule a date for a country or area orientation session for newly approved foster parents;

(ii) Complete provider alternate care screen in CHRIS if family has determined they are willing to serve as an informal respite home and, using CFS-419: Foster Family Support System (FFSS) Information, enter all appropriate identified foster care family support system individual members including information on their cleared background checks (see 9 CAR § 40-814, alternate care for children in out-of-home placement);

(iii) Enter begin date on availability status on provider status screen and request approval on provider service detail screen in CHRIS;

(iv) If the family has indicated interest and been approved to foster children/youth with specific characteristics, identify the appropriate disability willing to accept selection under the preferences tab in the provider services/admission criteria button; and

(v) File the approval letter in the foster home record.

(C) If the recommendation is denial, then:

(i)*(a)* Send a "Letter of Denial" to the applicants who were not approved.

(b) See 9 CAR § 40-807, denial of a resource home applicant,

and document in provider contact information screen in CHRIS;

(ii) End date the foster family service on the provider services tab selecting the appropriate reason for end date; and

(iii) Specify why the home was denied in the comment box on the provider services tab.

(b) The County Supervisor or designee is encouraged to participate in the final face-to-face visit and final visual inspection of the home with the Resource Worker.

(c)(1) The Area Director or designee will if appropriate, approve the Resource Worker's Request for approval in provider service detail screen in CHRIS to finalize the approval of the foster family.

(2) Upon approval, CHRIS automatically provides the foster family approval letter to be printed, mailed, and filed in the foster home record.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-765. Former therapeutic foster home reopening as Division of Children and Family Services foster home.

(a) For former TFC foster homes that express interest in opening as a Division of Children and Family Services foster home, the Resource Worker will:

(1) Request a referral on the family from their former TFC provider;

(2) If the referral is positive, complete new background checks on all appropriate members of the household regardless of whether previous background checks are still current;

(3) Once background checks have been verified, conduct an in-home consultation visit (see Procedure VII-C2) with the family;

(4)(A) Verify that the foster parent applicants have completed preservice training within the past two (2) years.

(B) If the applicants have not completed preservice training within the past (2) years, refer the family to MidSOUTH for preservice training upon successful completion of all background checks and the in-home consultation (see Procedures VII-

C3: Initiation of Pre-Service Training and VII-C4: Pre-Service Training);

(5)(A) Verify that the foster parent applicants have current CPR and standard first aid certification.

(B)(i) CPR and first aid training and certification will only be accepted from a certified trainer associated with the:

(a) American Heart Association;

(b) National Safety Council; or

(c) American Red Cross.

(ii) First aid training provided through the National Safety Council must be the standard first aid, not basic first aid.

(C) If the family does not have current CPR and standard first aid certification, assist the family in accessing appropriate training;

(6)(A) If the foster home has been closed less than one (1) year, verify that the foster parent applicants have completed fifteen (15) hours of continuing education related to fostering within the past calendar year.

(B) If the family has not earned fifteen (15) hours of continuing education within the past calendar year, they are responsible for obtaining the remaining hours.

(C) However, the time spent during the in-home consultation visit and orientation may count toward the fifteen-hour continuing education requirement;

(7) If the family will not be attending preservice training, ensure that the individual conducting the home study receives the completed SAFE Questionnaire I;

(8) Arrange for a SAFE home study to be completed on the family (see Procedure VII C-5: Home Study);

(9) If the family's SAFE home study is approved, ensure that:

(A) The CFS-475: Initial Checklist for Foster/Adoptive Home Assessment is completed;

(B) Any safeguard measures deemed necessary have been implemented; and

(C) Any requested alternative compliances or policy waivers have been approved;

(10) Invite the County Supervisor to accompany them on the final face-to-face visit and final visual inspection of the home;

(11) Conduct a final face-to-face visit with the prospective foster parents and a final visual inspection of the home (preferably with the County Supervisor);

(12) Review the approval packet with the family;

(13) Complete the CFS-462: Initial Foster Home Agreement with the family and file it in the foster home record; and

(14)(A) Enter a disposition as to the approval/denial of the foster home within three (3) working days of receipt of the Area Director's approval or denial.

(B) If the recommendation is approval, then:

(i) If the orientation has not already taken place, schedule a date for a county or area orientation session for newly approved foster parents;

(ii) Complete provider alternate care screen in CHRIS if family has determined they are willing to serve as an informal respite home and, using CFS-419: Foster Family Support System (FFSS) Information, enter all appropriate identified foster family support system individual members including information on their cleared background checks (see 9 CAR § 40-814 alternate care for children in out-of-home placement);

(iii) Enter begin date on availability status on provider service status screen and request approval on provider service detail screen in CHRIS;

(iv) If the family has indicated interest and been approved to foster children/youth with specific characteristics, identify the appropriate disability willing to accept selection under the preferences tab in the provider services/admission criteria button; and

(v) File the approval letter in the foster home record.

(C) If the recommendation is denial, then:

(i)*(a)* Send a "Letter of Denial" to the applicants who were not approved.

(b) See 9 CAR § 40-807, denial of a resource home applicant, and document in provider contact information screen in CHRIS;

(ii) End date the foster family service on the provider services tab selecting the appropriate reason for end date; and

(iii) Specify why the home was denied in the comment box on the provider services tab.

(b) The County Supervisor or designee is encouraged to participate in the final face-to-face visit and final visual inspection of the home with the Resource Worker.

(c)(1) The Area Director or designee will if appropriate, approve the Resource Worker's request for approval in provider service detail screen in CHRIS to finalize the approval of the foster family.

(2) Upon approval, CHRIS automatically provides the foster family approval letter to be printed, mailed, and filed in the foster home record.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-766. Private licensed placement agency (PLPA) resource homes.

(a)(1) A private licensed placement agency (PLPA) is a child placement agency licensed by the child welfare agency review board to recruit, train, approve, and support their own resource homes.

(2) A PLPA resource home provides substitute care within a family-like setting on a twenty-four-hour basis for any child placed in the home by a child placement agency.

(3) A PLPA is responsible for maintaining the resource homes it recruits by ensuring those resource homes continuously meet minimum licensing standards for child welfare agencies (placement) and Department of Human Services, as well as Division of Children and Family Services, resource home policy and procedures.

(b) These policies, standards, and procedures include but are not limited to:

(1) Completion of background checks;

(2)(A) SAFE home studies.

(B) **Note.** Resource parents must reside in their residence prior to a SAFE

home study being completed on the home;

(3) Preservice training;

(4) Continuing resource parent education as applicable;

(5) Adherence to the reasonable and prudent parent standard and use of all types of alternate care (see 9 CAR § 40-814);

(6) Requests for changes in placement (see 9 CAR § 40-828, foster parent request for placement change); and

(7) Allegations of child maltreatment involving the resource home (see 9 CAR § 40-820, child maltreatment allegations concerning out-of-home placements).

(c)(1) A PLPA resource home is monitored through quarterly and annual reevaluations by its respective PLPA approval agency.

(2) A PLPA resource home is also more intensively supervised and supported by the approving PLPA.

(3) In addition to a division Family Service Worker, each child in a PLPA resource home is assigned a case manager who is active in the child's daily life through frequent visits (a minimum of monthly).

(4) Placement in an approved and available PLPA resource home is an option for any child in department custody when a PLPA resource home best meets the needs of a child.

(5) Placement in a PLPA resource home of a child in the custody of the department is encouraged in the following circumstances:

(A) He or she is a sibling of a child placed in a PLPA home;

(B) He or she is a child of a youth in a PLPA home; or

(C) He or she had previously been placed in a PLPA resource home and transitioned to other services requiring a more intensive treatment approach (e.g., acute treatment), and the child is now able to return to a resource home setting.

(d)(1) A resource parent must be financially able to care for his or her own needs without the foster care board payment to supplement his or her income.

(2) If a resource parent with a current placement elects to no longer be an active resource parent for the PLPA, the PLPA will notify the division and work

collaboratively with the division to move any children currently placed in that resource home to another licensed or approved resource home, shelter, facility, or an exempt child welfare agency as defined at Arkansas Code § 9-28-402(12).

(3) PLPA resource homes are expected to accept placement of older children, six to eighteen (6 – 18) years of age, and sibling groups.

(e)(1) PLPA resource homes with space limitations are expected to seek and accept children over six (6) years of age.

(2) If a child in a PLPA resource home becomes available for adoption and the resource family has expressed interest in adopting the child, a consideration-to-adopt staffing may occur in accordance with 9 CAR §§ 40-918 and 40-919.

(f)(1) A resource home may not be both a PLPA home through a private licensed agency and a division resource home.

(2) If a PLPA home wishes to become a division resource home, the PLPA provider must close the PLPA home and complete an inquiry to become a resource home through the division.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2020"

9 CAR § 40-767. Referrals for private licensed placement agency (PLPA) resource homes.

(a) If the Family Service Worker (FSW) determines a private licensed placement agency (PLPA) resource home to be the most appropriate placement for a child, he or she will:

(1) Complete CFS-367: Specialized Placement Referral Form;

(2) Email the completed CFS-367 to the desired PLPA; and

(3) Retain a paper copy of the CFS-367 in the child's case file.

(b) If the child is accepted into a PLPA placement, the FSW will:

(1) Forward additional required documents to the provider, as requested;

(2) Continue to maintain the child's case file while he or she is in the PLPA resource home; and

(3) Coordinate a monthly visit with the PLPA case manager to assess the health and safety of the child placed in the PLPA resource home.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2020"

9 CAR § 40-768. Private licensed placement agency (PLPA) resource home transitioning to the Division of Children and Family Services resource home.

(a) If a current private licensed placement agency (PLPA) resource home wishes to become a Division of Children and Family Services resource home, the Resource Worker will:

(1) Request a referral on the family from the PLPA while confirming with the PLPA that the resource home is being closed out by the PLPA;

(2)(A) If the referral is positive, ensure that all required Division of Children and Family Services background checks (i.e., Child Maltreatment Central Registry check, Adult Maltreatment Central Registry check, Division of Arkansas State Police criminal record check, Federal Bureau of Investigation criminal background check, and vehicle safety check) are in place and current.

(B) Complete appropriate Children's Reporting and Information System (CHRIS) screens (see Procedure VII-C1: Background Check Processing);

(3) Once background checks have been verified, conduct an in-home consultation visit (see Procedure VII-C2: In-Home Consultation Visit) with the family;

(4) Verify that the family has completed:

(A)(i) Preservice training with the PLPA.

(ii) If the family did not complete preservice training with the PLPA, refer the family to MidSOUTH for preservice training upon successful completion of all background checks and the in-home consultation visit (see Procedures VII-C3: Initiation of Pre-Service Training and VII-C4: Pre-Service Training);

(B)(i) CPR and standard first aid certification.

(ii) First aid and CPR training and certification will only be accepted from a certified trainer associated with the:

(a) American Heart Association;

(b) National Safety Council;

(c) American Red Cross; or

(d) Health & Safety Institute.

(iii) First aid training provided through the National Safety Council must be the standard first aid, not basic first aid.

(iv) If the family does not have current CPR and standard first aid certification, assist the family in accessing appropriate training; and

(C)(i) Fifteen (15) hours of continuing education related to fostering within the past calendar year.

(ii) If the family has not earned fifteen (15) hours of continuing education within the past calendar year, they are responsible for obtaining the remaining hours.

(iii) The time spent during the in-home consultation visit and orientation may count toward the fifteen-hour continuing education requirement;

(5) Obtain a copy of the family's SAFE home study and any SAFE home study updates for review and assessment;

(6) If based on the review of the information described above, the family will continue with the approval process, invite the County Supervisor or designee to

accompany FSW on the final face-to-face visit and final visual inspection of the home;

(7) Conduct a final face-to-face visit with the prospective resource parents to include a final visual inspection of the home (preferably with the County Supervisor or designee) and review of the approval packet (see Procedure VII-C6: Final Approval of Resource Homes);

(8) Complete the CFS-462: Initial Resource Family Agreement with the family;

(9) File the CFS-462 in the resource home record; and

(10)(A) Enter a disposition as to the approval/denial of the resource home within three (3) working days of receipt of the Area Director's approval or denial.

(B) If the recommendation is approval, then:

(i) If the orientation has not already taken place, schedule a date for a county or area orientation session for newly approved resource parents;

(ii) Complete provider alternate care screen in CHRIS if family has determined they are willing to serve as an informal respite home and, using CFS-419: Resource Family Support System (RFSS) Information, enter all appropriate identified resource family support system individual members including information on their cleared background checks (see 9 CAR § 40-814, alternate care for children in out-of-home placement);

(iii) Enter begin date on availability status on provider service status screen and request approval on provider service detail screen in CHRIS;

(iv) If the family has indicated interest and been approved to foster children/youth with specific characteristics, identify the appropriate disability willing to accept selection under the preferences tab in the provider services/admission criteria button; and

(v) File the approval letter in the resource home record.

(C) If the recommendation is denial, then:

(i)*(a)* Send a "Letter of Denial to the applicants who were not approved.

(b) See 9 CAR § 40-807, denial of a resource home applicant, and document in provider contact information screen in CHRIS;

(ii) End date the foster family service on the provider services tab selecting the appropriate reason for end date; and

(iii) Specify why the home was denied in the comment box on the provider services tab.

(b) The County Supervisor or designee is encouraged to participate in the final face-to-face visit and final visual inspection of the home with the Resource Worker.

(c)(1) The Area Director or designee will, if appropriate, approve the resource worker request for approval in provider service detail screen in CHRIS to finalize the approval of the resource family.

(2) Upon approval, CHRIS automatically provides the resource family approval letter to be printed, mailed, and filed in the resource home record.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2020"

9 CAR § 40-769. Former private licensed placement agency (PLPA) resource home reopening as DCFS resource home.

For former PLPA resource homes that express interest in opening as a Division of Children and Family Services resource home, the Resource Worker will:

(1) Request a referral on the family from their former PLPA; and

(2) If the referral is positive, see 9 CAR § 40-813, reopening a resource home, and follow accordingly.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of

Arkansas Rules provided as follows:

"08/2020"

9 CAR § 40-770. Foster Care Driving Program and Car Insurance Reimbursement Program for youth in out-of-home placement.

(a)(1) An important rite of passage for many young adults is learning to drive and earning their driver's license.

(2) The Division of Children and Family Services Foster Care Driving Program and Car Insurance Reimbursement Program provide a mechanism to support youth in foster care in achieving this milestone.

(b) **Foster Care Driving Program.**

(1)(A) Any youth who is under eighteen (18) years of age and in Department of Human Services custody may apply for the Foster Care Driving Program once they are eligible for an instruction permit, learner's license, or intermediate license pursuant to:

(i) Arkansas law; and

(ii) Applicable rules promulgated by the Department of Finance and Administration.

(B) Youth who are eighteen (18) years of age and older and participating in the Extended Foster Care Program do not have to apply to the Foster Care Driving Program to obtain their driver's permit or license.

(C) However, both populations shall be able to meet:

(i) All state requirements listed in Arkansas Code § 27-16-804; and

(ii) Any applicable rules promulgated by the Department of Finance and Administration.

(2) For youth who are under eighteen (18) years of age in Department of Human Services custody, the following information will also be considered by the Transitional Youth Services (TYS) Program Manager or designee:

(A) Behavior history and placement stability over the last six (6) months;

(B)(i) For youth still in high school, current grade point average (GPA) and summary statement on recent academic performance and progress in school.

(ii) There is not a minimum GPA requirement, but if a youth is currently struggling in school, there may need to be a plan built around how to support the youth in school and ensure that learning to drive or earning a license will not be a further distraction;

(C)(i) Participation in Life Skills classes, either through the division or another provider, or explanation of why the youth does not currently participate in Life Skills.

(ii) Youth who are not actively participating in Life Skills are still eligible for the Foster Care Driving Program;

(D) Driving history and record of violations over the last twelve (12) months; and

(E) Other pertinent information deemed necessary.

(3) Following said review and in accordance with Arkansas Code § 27-16-702, the Director of the Division of Children and Family Services or designee may authorize an employee of the Department of Human Services or the resource parent to sign the application of a youth who is under eighteen (18) years of age and in the custody of the Department of Human Services for any of the following:

(A) Driver's license examination;

(B) Instruction permit;

(C) Learner's license;

(D) Intermediate driver's license; or

(E) Motor-driven or motorcycle license.

(4)(A) Also pursuant to Arkansas Code § 27-16-702, for a person who is under eighteen (18) years of age in the custody of the Department of Human Services, any negligence or willful misconduct of the person when driving a motor vehicle upon a highway shall not be imputed to the authorized employee or authorized resource parent who signed the application of the minor for a permit or license.

(B) The authorized employee or authorized resource parent shall not be

held liable in conjunction with the minor for any damages caused by the negligence or willful misconduct of the minor.

(5)(A) Completion of a driver's education course for youth in Department of Human Services custody and participating in the Extended Foster Care Program is encouraged but not required.

(B) Division funds may be utilized to pay enrollment and tuition fees directly to a program providing the driver's education course or to a resource parent or other placement provider on a reimbursement basis provided all necessary documentation is provided.

(6) In order to maintain the privilege of driving, youth in Department of Human Services custody shall abide by all Arkansas state laws pursuant to the permit or license type currently issued to that minor.

(7) The division will monitor the following items when a youth in an out-of-home placement has a driver's license:

(A) Youth's driving record;

(B) Youth's behavior;

(C) Youth's school performance; and

(D) Compliance with state law and division requirements as outlined above.

(8)(A) The director or designee may cancel the authorization for the driver's license for youth who are under eighteen (18) years of age.

(B) State law permits the Office of Driver Services to cancel, revoke, or suspend any learner's permit or driver's license upon request.

(9) If at any time, a youth who is under eighteen (18) years of age in an out-of-home placement no longer meets all of the state and division requirements, the division may take possession of the youth's learner's permit or driver's license until all requirements are again met.

(10)(A) If a youth enters foster care with a valid learner's permit or driver's license from any state, the youth must complete the CFS-388: Application and Agreement to Participate in Foster Care Driving Program and Car Insurance

Reimbursement Program.

(B) The form will indicate that the youth already has a driver's license and submit the form and a copy of the driver's license.

(C) Consideration will be given to encouraging the youth to apply for their Arkansas driver's license depending on the dynamics of a youth's case and expected time to reside in the State of Arkansas.

(11)(A) Youth participating in the Foster Care Driving Program must immediately report any traffic ticket received or motor vehicle accident in which they are involved in as a driver to their resource parent or other placement provider, as applicable.

(B) The youth or placement provider must:

(i) Report any traffic ticket received by the youth, or motor vehicle accident in which the youth is involved, to the youth's assigned FSW no later than twenty-four (24) hours following the incident; and

(ii) Provide a copy of any ticket issued for any violation to the youth's FSW.

(C) The youth and their transitional team will schedule a time to discuss the incident to determine if any action needs to be taken following the ticket or at-fault accident (for example, participation in a driver's education course or restricting driving privileges).

(c) **Car Insurance Reimbursement Program.**

(1) The Car Insurance Reimbursement Program exists to safely support youth in foster care as they work toward their driver's license, which for many is a critical step to successfully transitioning to adulthood.

(2)(A) A youth in an out-of-home placement, including any youth participating in the Extended Foster Care Program, must be:

(i) Insured to drive a specific vehicle before they are allowed to operate that motor vehicle; and

(ii) Included as a driver on the insurance policy for that specific vehicle.

(B) The insurance policy must meet minimum Arkansas motor vehicle liability standards.

(C) Any motor vehicle that a youth operates must be owned by the:

(i) Resource parent; or

(ii) Youth.

(3)(A) The division will reimburse the resource parents for the actual amount of the additional cost of adding a specific youth in foster care as a driver on the insurance policy for a specific motor vehicle, provided all necessary documentation is submitted by the resource parent for the reimbursement process.

(B) This includes presenting documentation from the insurance company of the actual amount of the additional cost to qualify for reimbursement.

(4)(A) If the youth owns their own car, they must present documentation of the cost of the policy that insures them.

(B) The division will reimburse the youth for the actual amount of the insurance policy provided that all necessary documentation is submitted by the youth for the reimbursement process.

(5) A car insurance reimbursement payment to a resource parent or a youth cannot be made without:

(A)(i) Approval from the TYS Program Manager or designee, that the youth has been approved to participate in the division Car Insurance Reimbursement Program.

(ii) Reimbursement will be made for either up to thirty (30) calendar days preceding this approval date or for the amount paid from the date the youth was added to an insurance policy, if that date is less than thirty (30) calendar days from the division central office approval date, unless extenuating circumstances apply as assessed by the TYS Program Manager or designee;

(B) Legible copy of the insurance policy, premium notice that specifically lists the youth in foster care as a designated driver for a particular car, or both; and

(C) Proof of payment of this amount.

(6)(A) The division will monitor the driving record, behavior, and school

performance, as applicable, of all youth in Department of Human Services custody or in the Extended Foster Care Program who have elected to participate in the division's Car Insurance Reimbursement Program.

(B) If at any time, the youth no longer meets all of the state and division requirements, the division may elect to discontinue reimbursing the resource parents or the youth for the actual costs of insuring the youth.

(7)(A) Youth participating in the Car Insurance Reimbursement Program must immediately report any traffic ticket received or motor vehicle accident in which they are involved in as a driver to their Family Service Worker, as well as resource parent or other placement provider, as applicable.

(B) A copy of any ticket issued for any violation will be requested by the FSW.

(C) The youth and their transitional team will schedule a time to discuss the incident to determine if any action needs to be taken following the ticket or at-fault accident (for example, participation in a driver's education course or discontinuing car insurance reimbursement).

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"12/2022"

Subpart 8. Development of Resource Homes and Support to Resource Parents

9 CAR § 40-801. Resource home definitions and roles.

(a)(1) The development of quality resource homes is a process essential for ensuring the safety and well-being of children in care while concurrently supporting

children's permanency goals.

(2) The Department of Human Services, Division of Children and Family Services is licensed by the Child Welfare Agency Review Board as a child placement agency to approve foster and adoptive homes for the Division of Children and Family Services.

(3) The Division of Children and Family Services utilizes the term "resource home" to refer to both types of these homes and "resource parent" or "resource family" to refer to an individual or family in those homes that provide a family-like setting on a twenty-four-hour basis for children in the custody of and placed there by the department.

(4) For the time in which a child in department custody is placed in a resource home, that resource home must:

(A) Adhere to the reasonable and prudent parent standard (see 9 CAR § 40-814, alternate care for children in out-of-home placement) in the care of any child placed in the home by the department; and

(B) Be the primary residence of the individual or family that is owned, rented, sublet, or leased by the individual or family.

(b)(1) To receive full approval as a resource home, a resource home must meet all applicable Minimum Licensing Standards for Child Welfare Agencies (Placement) established by the Child Welfare Agency Review Board and the Division of Children and Family Services policy regarding resource home approval and maintenance provided herein (i.e., 9 CAR § 40-801 et seq.).

(2) Anything less than full approval as a resource home is insufficient for meeting Title IV-E eligibility requirements.

(3) A resource home must meet all applicable Minimum Licensing Standards for Child Welfare Agencies (placement) and Division of Children and Family Services policy pertaining to resource home approval and maintenance for the duration of the child's placement while the child is in department custody.

(4) With respect to resource homes on or near Indian reservations, approval rests with the tribal licensing or approval authority.

(c)(1) Regardless of the specific service type provided, the terms resource home and resource family are used because all resource families are designed to serve as a resource to children in the custody of the department.

(2) In cases where reunification with the biological family is still the goal, resource families also serve as a resource to the child's biological family.

(3) The resource family is part of a team.

(4) When team members cooperate and understand their own and each other's roles, the quality of the experience for everyone is increased and the well-being of the child and his or her family is positively affected.

(d) There are two (2) types of Division of Children and Family Services resource homes that provide foster care services:

(1) Relative or fictive kin resource homes (which may be opened on a provisional basis or as a fully approved resource home); and

(2) Traditional resource homes.

(e)(1) Relative or fictive kin resource homes that are opened on a provisional basis are identified, recruited, and opened in an expedited manner.

(2) The Division of Children and Family Services seeks out provisional relative and fictive kin resource homes in an effort to preserve family connections and reduce the amount of trauma a child experiences when entering foster care, by placing them with a safe and appropriate relative or fictive kin.

(3) "Relative" means a person within the fifth degree of kinship to the child or to at least one (1) of the children in a sibling group, including step-siblings and half-siblings, by virtue of blood or adoption if one (1) has been identified and is appropriate.

(4) "Fictive kin" means a person not related by blood or marriage, but who has a strong, positive, emotional tie to a child and has a positive role in the child's life (or the life of a parent of the child, if the child is an infant), if one has been identified and is appropriate.

(f)(1)(A) To open and place a child in department custody in a provisional relative or fictive kin resource home, Arkansas Child Maltreatment Central Registry check, Division of Arkansas State Police criminal record check, and a traffic violations record

check results must be received for all applicable household members, and a visual inspection of the home must be completed.

(B) See 9 CAR 40-806.

(2) Therefore, a provisional relative or fictive kin resource home may be opened and a child in department custody placed in that home before:

(A) The results of the Federal Bureau of Investigation background check are received;

(B) Out-of-state child maltreatment checks are received;

(C) The provisional resource parents have completed the pre-service training; and

(D) A full home study is completed.

(g)(1) Once opened as a provisional resource home, Division of Children and Family Services staff works with those relative or fictive kin resource parents to bring them into full compliance with all minimum licensing standards and Division of Children and Family Services policies in order to transition from provisional resource home status to a fully approved relative or fictive kin resource home within a six (6) month period.

(2) However, through the approved alternative compliance or policy waiver processes (see Appendix F: Alternative Compliance and Policy Waiver Protocol), nonsafety standards and policies may be waived for relative and fictive kin resource homes and the home will still be considered to be in full compliance with any alternative compliance or policy waiver that is in place for that specific home.

(h)(1) Provisional resource homes that are not in full compliance at the end of six (6) months must be closed and the child or children removed, unless the relative has acquired custody.

(2) However, Division of Children and Family Services staff will ensure that every effort is made to help the provisional resource parents come into compliance with all requirements within six (6) months as long as the health and safety of the children placed there are ensured.

(3) Division of Children and Family Services staff will also, if applicable, ensure that any necessary transition plans are developed in advance of this six-month mark in

an effort to lessen trauma to the children.

(i)(1) During the period that a relative or fictive kin home is on provisional resource status, a foster care board payment is not provided.

(2) However, provisional resource parents may apply for and receive benefits for which the relative or fictive kin is entitled due to the placement of the child in the home (e.g., SNAP).

(3) A provisional resource home may also receive child support or any federal benefits (e.g., Social Security Administration) paid on behalf of the child, as applicable.

(j)(1) If a home initially opened as a provisional resource home becomes a fully approved relative or fictive kin resource home, a foster care board payment will then be provided to help support the needs of the child placed in the home.

(2) However, if the home received any child support or any federal benefits paid on behalf of the child while the home was on provisional status, those child support payments or federal benefits may then be transferred to the Division of Children and Family Services to reimburse the state for foster care board payments and other expenses as appropriate.

(k)(1) Once opened as a fully approved resource home, the resource parents may then request to care for children in foster care who are not related to or are not fictive kin of the resource parent with the understanding that additional evaluation of the home would be required to ensure that it would be an appropriate placement for children who are not related or not fictive kin to the resource parent.

(2) Additional training may also be requested before a resource home originally designated as a relative or fictive kin resource home begins taking children who are not related or not fictive kin.

(l)(1) Traditional resource homes are recruited to provide twenty-four-hour care for a child in foster care to whom they are neither related nor have other prior connections.

(2) However, once fully approved, traditional resource homes may provide care for both related and nonrelated children in department custody who are placed there.

(3) In addition, a traditional resource home may also serve, if desired, as an

informal respite home.

(4)(A) An informal respite home is an approved Division of Children and Family Services resource home that can provide temporary care (no more than seven (7) continuous days at one (1) time) for children in out-of-home placements when the children's full-time resource family is unable to do so and a member of the resource family's support system cannot assist.

(B) See 9 CAR § 40-814, alternate care for children in out-of-home placement.

(m)(1) A Division of Children and Family Services employee is only permitted to serve as an agency-approved resource parent for informal respite care purposes but may not provide informal respite care for children/youth on his or her own caseload.

(2) The Director of the Division of Children and Family Services or designee must give prior approval to any employee seeking to become an agency-approved informal respite home provider.

(3) Each Division of Children and Family Services employee's request to serve as an informal respite care home will be assessed on a case-by-case basis.

(4) Division of Children and Family Services staff requesting to become informal respite providers must meet the same licensing and space requirements as traditional resource homes.

(5) Staff from a different county or a contract provider must assess and approve the home.

(6) Employees will not use their employment status to:

(A) Obtain information about the child's case;

(B) Gain services; or

(C) Receive preferential treatment.

(n) However, in situations where Division of Children and Family Services staff are relatives of children placed in department custody, and it is in the best interest of the child to be placed with the relative, the director may grant approval for the relative/employee to serve as a full-time resource home on a case-by-case basis.

(o) For additional information, see PUB-30: Resource Parent Handbook.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-802. Resource home recruitment and retention.

(a)(1) The Division of Children and Family Services will recruit enough resources families to ensure that all children are placed in the least-restrictive, most family-like setting that meets each child's individual needs.

(2) Recruitment should result in an increased number of qualified, trained resource families in Arkansas.

(3) The division will diligently recruit potential resource families that reflect the ethnic and racial diversity of children in care.

(b)(1) Targeted recruitment will take place for resource parents who are willing and able to meet special needs of children needing placement.

(2) Targeted recruitment will begin with a diligent search and assessment of each youth's relatives and fictive kin as placement potentials, both at the initial removal from the family home and continuing throughout the dependency-neglect case.

(c)(1) Recruitment of new resource families is an ongoing activity for which all staff are responsible.

(2) However, the resource unit in each area will take the lead role in the recruitment process.

(3) Recruitment efforts include, but are not limited to:

(A) Participation from current resource parents;

(B) Development of local and statewide media campaigns; and

(C) Collaboration with community organizations.

(d)(1) As part of resource home recruitment, each county may host information

meetings to explain the steps to becoming a resource home as well as the responsibilities that resource parents have to children and their families who are involved with the division.

(2) The information meeting will also help attendees better determine if they want to apply to become resource parents.

(3) Prospective, traditional resource parents are strongly encouraged to attend an information meeting prior to beginning the application process.

(4) Neighboring counties may hold joint information meetings to better accommodate schedules and maximize staff time.

(e)(1) Recruitment does not end when a resource home is opened.

(2) It must be sustained with retention efforts.

(3) The division will retain quality resource homes by ensuring good communication with and support to resource families.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-803. Resource parent recruitment.

(a)(1) All staff should participate in recruitment efforts.

(2) While the following is not a comprehensive list, staff will:

(A) Actively seek out relatives and fictive kin as emergency placement options for every child entering foster care;

(B) Actively coordinate with professional organizations and minority groups to create public interest;

(C) Contact community organizations and media to inform them about Division of Children and Family Services needs and successes;

(D) Encourage resource parents to:

(i) Make one-to-one contacts with other individuals who may be interested or have expressed interest in becoming a resource home; and

(ii) Schedule speaking engagements with community groups in order to share information about fostering; and

(E) Conduct information meetings.

(b) The Area Director or designee will conduct an annual assessment of current resource homes and identify the need for additional resource homes.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-804. Retention of foster homes.

(a) All Division of Children and Family Services staff will:

(1) Ensure good communication among all team members, as well as mutual respect, understanding, and honesty;

(2) Keep resource parents informed of division programs, services, and policies that relate to foster care; and

(3) Support resource homes as needed in order to best serve children and families.

(b) Resource Workers will:

(1) Discuss and assist resource parents in understanding their rights and responsibilities as resource parents as well as the rights and responsibilities of the division;

(2) Provide resource parents with the county on-call contact information sheet;

(3) Visit homes quarterly for monitoring to:

(A) Ensure compliance with licensing standards and resource home requirements;

(B) Address any issues; and

(C) Offer support to the resource family;

(4) Engage external stakeholders and share relevant information, thus supporting the practice model;

(5) Inform resource parents of the internal review of adverse action procedure, when differences arise with the division which have not been resolved to the resource parents' satisfaction, as outlined in PUB-30: Resource Parent Handbook;

(6) Collaborate with adoption staff as appropriate when a child's permanency goal is changed to adoption and when a child is transitioning from a resource home to an adoptive home; and

(7)(A) Provide resource parents with information about the division's opt-in text application used for placement purposes and the resource family provider portal.

(B) Encourage use of both programs during quarterly visits to resource homes.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-805. Information meetings.

The Resource Unit staff or designee will:

(1) Address the following topics at the information meeting:

(A) Overview of foster care;

(B) Demographics and characteristics of children in care;

(C) Types of resource homes needed in the county;

(D) Approval standards; and

(E) Application and assessment process; and

(2) Ensure a current or former resource parent is present and available to answer questions.

Authority. Arkansas Code § 20-76-201.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-806. Resource home assessment process.

(a)(1) In order to ensure quality resource homes, the Division of Children and Family Services will complete a thorough home assessment for each prospective resource family.

(2) The purpose of the assessment process is to educate prospective resource parents on the characteristics of children in out-of-home placement and evaluate their ability to meet those needs, as well as evaluate the applicants' compliance with the Minimum Licensing Standards for Child Welfare Agencies and Division of Children and Family Services policy requirements for resource homes.

(3) The home assessment is a mutual selection process.

(4) It involves several components including, but not limited to, background checks, an in-home consultation visit, preservice training, a home study, and ongoing consultation with the prospective resource parents to ensure that all appropriate criteria related to both compliance and quality are met.

(b) **Basic criteria.** Basic criteria for consideration in determining the appropriateness of resource homes include but are not limited to the following:

(1)(A) Age.

(B) An applicant must be at least twenty-one (21) years of age.

(C) A policy wavier may only be approved in rare circumstances for provisional homes;

(2)(A) Citizenship.

(B) A traditional resource parent applicant must be a United States citizen or a legal permanent resident.

(C) However, persons who are undocumented may be considered as a resource home applicant for their relatives or fictive kin;

(3)(A) Relationship stability.

(B)(i) In a two (2) parent home, both parents will be joint applicants and both parents will actively participate in the approval process.

(ii) The couple will demonstrate a stable relationship.

(iii) In assessing relationship stability, considerations may include major life changes such as:

(a) Death or serious illness among family members;

(b) Marriage, separation, divorce, or other significant changes in the couple's relationship;

(c) Addition of household members (e.g., birth, adoption, aging relative moving in); and

(d) Loss of or change in employment.

(C) In a single parent home, the major life changes listed above will also be considered when assessing the person's ability to be an effective resource parent.

(D)(i) A resource home may not house or admit any roomer or boarder.

(ii) A roomer or boarder is:

(a) A person to whom a household furnishes lodging, meals, or both, for a reasonable monthly payment; and

(b) Not a household member.

(E) A household member is a resident of the home who:

(i) Owns or is legally responsible for paying rent on the home (household head);

(ii) Is in a close personal relationship with a household head; or

(iii) Is related to a household head or to a person in a close personal relationship with a household head.

(F) Any household member who resides in the home for more than three (3) cumulative months in a calendar year must clear all the following background checks as applicable by age of the household member (see the background check subsection below for more information):

(i) Child Maltreatment Central Registry;

(ii) Child Maltreatment Registry check in any state in which the household member has lived within the preceding five (5) years;

(iii) Division of Arkansas State Police Criminal Record check; and

(iv) Federal Bureau of Investigation criminal background check;

(4)(A) General physical and mental health.

(B)(i) Members of the household must not have a health condition or disability that would interfere with the family's ability to parent the child.

(ii) Each member of the household will have a physical examination by a physician within twelve (12) months prior to the approval of the home study on the prospective resource family, and annually thereafter, though biological and adopted children of provisional resource applicants are exempt from the physical exam requirement.

(iii) Additional information may be requested based on the results of the physical examination report.

(iv) The resource parent applicant must also provide the Division of Children and Family Services with the health history of each household member, in addition to the physical exam required for approval.

(v) This history will include:

(a) Physical and mental health services;

(b) Treatment received;

(c) A list of currently prescribed medications; and

(d) Any other medications or other substances currently taken.

(C)(i) Resource parents will not engage in the use of illegal substances,

abuse alcohol by consuming in excessive amounts, or abuse legal prescription drugs or nonprescription drugs by consuming them in excessive amounts or using them other than as indicated or prescribed.

(ii) It is recommended that all children who are household members of a resource home be up to date on immunizations consistent with the recommendations of the:

(a) American Academy of Pediatrics (AAP);

(b) Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention (ACIP); and

(c) American Academy of Family Physicians (AAFP).

(iii) All family members under eighteen (18) years of age in the household shall have proof of current health immunizations, or an exemption (medical, religious, or philosophical) in accordance with the Department of Health.

(iv) Immunizations against COVID-19 are encouraged for all applicable household members in a resource home but are not required.

(D)(i) In addition, all household members who will have contact with infants (children under twelve (12) months) are encouraged to have an up-to-date Tdap vaccination to protect against pertussis (whooping cough) consistent with the recommendations of the ACIP.

(ii) Finally, all household members who will be caregivers of infants (children under twelve (12) months) and medically vulnerable children are encouraged to have an up-to-date annual influenza vaccine consistent with the recommendations of the ACIP.

(iii) To determine if a child is considered medically vulnerable to influenza if placed in a resource home whose household members have not received an annual influenza vaccine, Division of Children and Family Services staff will consult with the child's PCP to make sure the child can safely be placed with that family;

(5)(A) Housing.

(B) The Division of Children and Family Services adheres to minimum licensing standards which include, but are not limited to (please refer to PUB 30:

Resource Parent Handbook for a full list of standards):

(i)*(a)* The resource home will be a house, mobile home, housing unit, or apartment occupied by an individual or a family and will be the primary residence of the individual or family.

(b) The location will be zoned for single family use and will have an individual address for emergency response purposes (i.e., 911);

(ii) Resource parents will reside in the same single-family unit with foster children and will not have separate living quarters;

(iii) The resource home, ground, and all structures on the property will be maintained in a clean, safe, and sanitary condition and in a reasonable state of repair within community standards;

(iv) The resource home will not have signage or advertising related to a supporting recruitment agency, to include signage on vehicles used to transport foster children;

(v) The resource home interior and exterior will be free from dangerous objects and conditions, and from hazardous materials;

(vi)*(a)* Space must be adequate to promote health and safety.

(b) Each bedroom should have at least fifty square feet (50 ft^2) of space per occupant.

(c) This includes infants sleeping in master bedrooms;

(vii) The resource home will have a heating, ventilating, and air conditioning source, maintained in safe operating condition, that keeps the temperature a minimum of sixty-five degrees (°56) and a maximum of eighty-five degrees ;(°58)

(viii) The resource home will be free of obvious fire hazards such as defective heating equipment or improperly stored flammable materials;

(ix) All firearms must be maintained in a secure, locked location, and stored separately from ammunition, which must also be locked;

(x) The resource home will have proper trash and recycling disposal;

(xi) The resource home will be free of rodent and insect infestation;

(xii)*(a)* All water hazards and dangerous pets will be assessed.

(b) Safeguard measures will be implemented, as appropriate;

(xiii) The resource home will be responsible for their own meal planning;

(xiv)*(a)* Children of opposite sexes will have their own separate bedrooms if either child is four (4) years of age or older, except for a mother in foster care with her child or children.

(b) Resource parents will not cosleep or bed share with a foster child of any age, including infants;

(xv) Water shall be provided by public water system or approved annually by the Department of Health;

(xvi) Prospective resource parents who rent must obtain acknowledgement from their landlord that they plan to become a resource family on landlord's property if they are approved by the Division of Children and Family Services to be a resource home; and

(xvii) Prospective resource parents will be responsible for making their own decisions regarding which children to accept into their home, however, they will recognize the priority to maintain sibling groups;

(6)(A) Smoking restrictions.

(B) The Division of Children and Family Services will not place or permit a child in foster care in any resource home if the resource parent smokes or allows anyone else to smoke in the presence of any child in foster care, unless it is in the child's best interest to be placed in or remain in the resource home.

(C) This includes the use of e-cigarettes and vaping.

(D) If the resource parent indicates smoking will not occur in the presence of a child in foster care, then the Division of Children and Family Services will designate the home a "nonsmoking" resource home.

(E) If a resource parent indicates that smoking will occur in the presence of a child in foster care, the resource home will be designated a "smoking" resource home, and no child may be placed or remain in the resource home unless it is in the child's best interest to be placed in or remain in the resource home.

(F) Second-hand smoke is detrimental to a child's health and, as such, it is generally not in a child's best interest to be placed in a resource home that permits smoking in the presence of a child in foster care.

(G) In addition, state law prohibits smoking in a vehicle if a child in the car is under fourteen (14) years of age and under Division of Children and Family Services policy this prohibition to smoking in a vehicle extends to all children in foster care regardless of age of the child in care; and

(7)(A) Resources.

(B) The applicant must have sufficient resources to meet the financial, medical, physical, educational, emotional, and shelter needs of the child, without relying solely on state or federal financial assistance (e.g., SNAP, SSI, SSA, etc.) to meet those needs, although these forms of assistance may be used to supplement a family's income.

(C) The Division of Children and Family Services may make some exceptions for applicants depending on the totality of their financial and other circumstances.

(D) Recent check stubs and the previous year's income tax return are required to verify income and employment.

(E) While the foster care board payment may be provided for a child, resource parents must have sufficient personal income to care for a child even without a board payment.

(F) The foster care board payment will not be considered a part of the resource family's income.

(c) **Background checks.**

(1)(A) In addition to ensuring that homes meet the basic criteria, the Division of Children and Family Services will only place children in approved resource homes where the resource parents and appropriate members of the household have been cleared through a series of background checks:

(i) The Child Maltreatment Central Registry;

(ii) A Division of Arkansas State Police criminal record check; and

(iii) A Federal Bureau of Investigation background check (with the exception that placements may be made in provisional resource homes before Federal Bureau of Investigation results are received).

(B) Any household member who resides in the home for more than three (3) cumulative months in a calendar year (e.g., an adult biological child of the resource parents who is home for the summer and holiday breaks or a relative who visits for six (6) weeks twice a year) must clear all applicable background checks.

(2) **Child Maltreatment Central Registry.**

(A) Resource parents and all other members of the household fourteen (14) years of age and older, excluding children in foster care, must be cleared through the Child Maltreatment Central Registry.

(B) The Child Maltreatment Central Registry check will be repeated every two (2) years on all appropriate household members.

(C) If applicable, a Child Maltreatment Central Registry check will also be conducted on each household member fourteen (14) years of age or older in any state of residence in which they have lived for the past five (5) years, and in their state of employment, if different, for reports of child maltreatment.

(3) **State police criminal record check.**

(A) Resource parents and all other members of the household eighteen and a half (18 1/2) years of age and older, excluding children in foster care, must be cleared through an Arkansas Division of State Police criminal record check.

(B) As soon as possible after a household member, excluding children in foster care, reaches his or her eighteenth birthday, the paperwork to request the Division of Arkansas State Police criminal record check must be initiated to ensure results are received by the time that household member reaches eighteen and a half (18 1/2) years of age.

(C) The Division of Arkansas State Police criminal record check will be repeated every two (2) years on all appropriate household members.

(D) If a provisional Division of Arkansas State Police criminal record check enters pending status Division of Children and Family Services staff may work with local

law enforcement to obtain local verification of criminal record for the individual to expedite placement of the child in the home of the relative or fictive kin.

(E) The Division of Children and Family Services staff will ensure follow up with the Division of Arkansas State Police criminal record check within two (2) business days of check entering pending status.

(4) **Federal Bureau of Investigation criminal background check.**

(A) Resource parents and all members of the resource home who are eighteen and a half (18 1/2) years of age and older, excluding children in foster care, must also clear a Federal Bureau of Investigation fingerprint-based criminal background check.

(B) As soon as possible, after a household member (excluding children in foster care) reaches his or her eighteenth birthday, the paperwork to request the Federal Bureau of Investigation criminal record check must be initiated to ensure results are received by the time that household member reaches eighteen and a half (18 1/2) years of age.

(C) The Federal Bureau of Investigation check does not need to be repeated.

(D) Placement in a provisional resource home may be made prior to receipt of Federal Bureau of Investigation criminal background check results, when in the best interest of the child.

(E) When placement in a provisional home occurs, the Division of Children and Family Services will ensure that Federal Bureau of Investigation criminal background checks are submitted for processing within five (5) business days.

(F) Barriers to completion within five (5) business days should be assessed on a case-by-case basis and decisions should be made relevant to the best interests of the youth or youths placed in the provisional resource home.

(5) **Traffic violations record check.**

(A)(i) The Division of Children and Family Services will check the traffic violations record from the Office of Driver Services for each prospective resource parent and other applicable members of the household.

(ii) This record returns the number of traffic offenses and other violations incurred by the resource applicant, to include the number of points assessed by the Office of Driver Services for convictions of moving traffic violations as per the Arkansas State Vehicle Safety Program (ASVSP).

(iii) The traffic violations record check will be repeated every two (2) years.

(iv) To ensure child safety, the Division of Children and Family Services will carefully assess what, if any, safety concerns exist for any applicant or current resource parent accumulating ten (10) or more points on their traffic violation record.

(B)(i) A family member with no current valid Arkansas driver's license will be given twenty (20) days to apply and receive an Arkansas driver's license.

(ii) If the resource family member does not wish to obtain an Arkansas license, a written explanation from the applicant is required and a traffic violations record check must be completed in the state of issuance for the currently held license.

(iii) The applicant is responsible for obtaining and providing the traffic violations record check from the other state.

(C) The requirement for a driver's license may be waived for provisional applicants if an acceptable plan to transport the children placed in their home to school, court dates, medical appointments, and similar engagements is approved.

(d) **In-home consultation visit.**

(1) The in-home consultation visit allows resource staff to gather initial information on provisional applicants and additional information for traditional applicants that was not provided in the online application.

(2) The in-home consultation visit will determine if the home meets approval requirements and, if not, what changes are needed to come into compliance.

(3) Resource home approval requirements include Minimum Licensing Standards for Child Welfare Agencies and Division of Children and Family Services policy requirements for resource homes.

(e) **Preservice training.**

(1)(A) Resource parents must also complete the Division of Children and Family Services-approved preservice training curricula designated for an applicant's specific service type (i.e., relatives and fictive kin or traditional).

(B) For traditional resource applicants, preservice training and the Division of Children and Family Services orientation and final walk-through of the home must be completed prior to placement of a child.

(C) Preservice training will include, but is not limited to the following topics:

(i) Legal rights;

(ii) Roles, responsibilities, and expectations of resource parents;

(iii) Agency structure, purpose, policies, and services;

(iv) Laws and regulations as related to resource homes or foster children;

(v) The impact of childhood trauma;

(vi) Managing child behaviors;

(vii) Medication administration; and

(viii) The importance of maintaining meaningful connections between the child and parents, including regular visitation.

(2)(A) Child Maltreatment Central Registry and Division of Arkansas State Police criminal background checks must be cleared, and the Federal Bureau of Investigation criminal background check must have been submitted before a prospective resource parent can begin preservice training.

(B) Traditional resource parents must also complete infant, child, and adult CPR and standard first aid training and receive certification in both areas prior to placement of a child in their home.

(C) Provisional resource parents must complete infant, child, and adult CPR and standard first aid training within six (6) months of the child being placed in their home, though the CPR and standard first aid training is not an element that is required to move from provisional status to fully approved relative foster family home

or fictive kin foster family home status.

(3)(A) New CPR and first aid training is not required for individuals certified as paramedics and emergency medical technicians (EMTs) if proof of current certification is provided to Division of Children and Family Services staff.

(B) Current certification in basic life support (BLS) and advanced cardiovascular life support (ACLS) also meet the Minimum Licensing Standard for CPR if proof of current certification is provided to the Division of Children and Family Services staff.

(C) All other medical professionals (including nurses) must have current CPR certification as outlined above and provide a copy of their current certification to Division of Children and Family Services staff.

(D) Additional first aid training for nurses and other medical professionals (to include those with ACLS certification) is not required.

(E) If an applicant with a current BLS certification is a paramedic, EMT, or firefighter, additional first aid training is not required.

(F) A lay person with BLS certification may have to take a first aid class if current certification in first aid cannot be provided.

(f) **Home study.**

(1)(A) The home study assists in determining if a family is ready, willing, and able to become a suitable and safe placement resource for a child.

(B) At least two (2) home study visits must be conducted with a resource parent applicant.

(C) The preference is for both visits to take place in the resource applicant home, but, as needed, it is permissible for one (1) visit to be in the resource applicant home while the other is conducted over a virtual conference platform (e.g., Zoom, Facetime) with the approval of the applicable Division of Children and Family Services Program Manager or designee who oversees home study provider contracts.

(D) The evaluator will interview each age-appropriate member of the household.

(2)(A) The Division of Children and Family Services-approved home study tool

evaluates a family's dynamics including, but not limited to, motivation for wanting to become a resource home, household composition, housing, safety hazards, income and expenses, health, education, childcare arrangements or plans, child rearing practices, daily schedules, social history, family activities, and support systems (for more information, see PUB-30: Resource Parent Handbook).

(B) By learning more about these areas, the home study assists in ascertaining how members of a family function individually and as a unit, and, subsequently, helps inform the conclusions and recommendation as to whether a family should serve as a resource home.

(3)(A) If at any point throughout the home assessment process a prospective resource home is found to be out of compliance with a licensing standard or a Division of Children and Family Services policy, the noncompliance issue must be addressed.

(B) However, if the Resource Worker determines that the noncompliance issue would not endanger the safety or well-being of children placed in a home, an alternative compliance or Division of Children and Family Services policy waiver may be requested as appropriate, (particularly for relatives and fictive kin).

(C) An alternative compliance is a request for approval from the Child Welfare Agency Review Board to deviate from a minimum licensing standard.

(D) A policy waiver is a request to deviate from a Division of Children and Family Services policy or procedure.

(E) If the individual conducting the home study finds an area of noncompliance, he or she must notify the Resource Worker who should then take the appropriate steps as outlined in Appendix F, to address the noncompliance issue.

(4)(A) The successful completion of all home assessment components as outlined above will allow the Division of Children and Family Services to assess the quality and capability of resource homes.

(B) The home assessment process will also assist prospective resource parents in determining if fostering is appropriate for them and, if so, prepare them for their new role.

(5)(A) The home study may be conducted by designated Division of Children

and Family Services staff, by staff contracted through the MidSOUTH Training Academy or other contract providers, or by volunteers trained by designated Division of Children and Family Services staff.

(B) The evaluator will complete the division-approved home study in accordance with established protocols.

(g) **Final walkthrough of the home and orientation.**

(1) Prior to approving an open resource home, Division of Children and Family Services staff will conduct a final walk-through of the home to ensure all resource home requirements have been met, and to review what to expect in the immediate future regarding a first placement.

(2) This will include the Division of Children and Family Services and the resource parents signing the initial resource agreement, which provides a summary of the following information:

(A) Expectations and responsibilities of the Division of Children and Family Services, the staff, and the resource parents;

(B) Services to be provided;

(C) Financial arrangements for the children placed in the home;

(D) Authority that the resource parents can exercise for the children placed in their home;

(E) Actions that require Division of Children and Family Services authorization;

(F) Legal responsibility for damage or risk resulting from children in their home;

(G) Division of Children and Family Services process and procedures for investigating complaints; and

(H) Division of Children and Family Services procedure for giving advance notice of termination of a placement except for documented emergencies.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-807. Denial of a resource home applicant.

If at any point during the home assessment the Division of Children and Family Services determines that an applicant does not meet the standards or any other criteria of a quality resource home, the division will deny approval of the home.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-808. Denial as a result of negative results of a background check.

The Resource Worker or designee will:

(1) Share the results with the applicant and inform them of their ineligibility to attend training;

(2)(A) For denials related to criminal background check record results, ensure that a CFS-508-A: Letter of Denial was previously sent to the applicant via certified, restricted mail and document the letter in provider contact information screen in the Division of Children and Family Services information system.

(B)(i) If the family chose at initial notification of the criminal history via CFS-508-A to challenge the accuracy and completeness of their criminal history record or obtain missing disposition information and contacted the assigned Resource Worker within thirty (30) days of receipt of the CFS-508-A to inform the Resource Worker that

the family planned to challenge the results, keep the resource parent application and associated provider number open in the division information system until the requested corrections are either approved or denied at which point further action will be taken, as appropriate.

(ii) If there are changes or updates to an applicant's criminal history record and the decision is made to move forward with a request for an alternative compliance request from the Child Welfare Agency Review Board, see Appendix F: Alternative Compliance and Policy Waiver Protocol.

(C)(i) If the Resource Worker does not receive notification that the family has elected to challenge the results of their criminal history report, then remove the resource parent application from the system and close the associated provider number.

(ii) If the family chooses to review and request corrections to their state or Federal Bureau of Investigation criminal history reports in the future, they may reapply to become a resource parent at any point once corrections are made.

(iii) Resubmission of a resource parent application does not guarantee approval as a resource parent;

(3) Document the results of the background check in the division's information management system selecting the appropriate reason for end date; and

(4) Specify why the home was closed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-809. Denial as a result of the in-home consultation visit.

(a) The Resource Worker will:

(1)(A) Inform the family of their noncompliance with any identified standard or

policy and determine if the family is willing or able to implement a safeguard measure in a timely manner in order to achieve compliance.

(B) The family cannot be approved to open as a resource home until the safeguard measure is implemented;

(2)(A) If the family chooses not to address compliance issues or, despite trying, fails to achieve compliance, share the noncompliance with the family and document it on the CFS-446: In-Home Consultation Visit Report with all signatures.

(B) The family will sign the in-home consultation, acknowledging noncompliance;

(3) Recommend nonapproval for training if the family cannot comply with all approval standards;

(4) End date the resource family service on the provider services tab by selecting the appropriate reason for the end date in the Division of Children and Family Services information system; and

(5) Specify why the home was closed in the comment box on the provider services tab.

(b) The Resource Supervisor or designee will if a family fails to address noncompliance issues, disapprove the family and provide them with a copy of the CFS-446: In-Home Consultation Visit Report with all signatures.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-810. Denial as a result of the home assessment.

The Resource Worker Supervisor or designee will:

(1) Send a denial letter to all applicants who are not approved and document

in provider contact information screen in the Division of Children and Family Services information system;

(2) End date the resource family service on the provider services tab, by selecting the appropriate reason for the end date in the division information system; and

(3) Specify why the home was closed in the comment box on the provider services tab.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-811. Resource home monitoring and reevaluation.

(a)(1) In order to ensure continued quality of all the Division of Children and Family Services resource homes, the division will monitor resource homes at least quarterly and conduct a complete reevaluation of each resource home's ability to care for children at least annually.

(2) At least one (1) of the quarterly monitoring visits shall be:

(A) Unannounced; and

(B) Documented as unannounced in the resource home record.

(b) Resource staff shall use the division-approved monitoring and reevaluation forms and tools for the quarterly monitoring and reevaluation visits to include background check request forms and tools when a family's Child Maltreatment Central Registry checks and state criminal background must be updated.

(c)(1) Quarterly monitoring and annual reevaluation visits will ensure the resource home remains in compliance with all Minimum Licensing Standards for Placement as well as division policy for resource homes and otherwise appropriately meeting the

physical, mental health, and emotional needs of the children placed in the home.

(2) Corrective action plans may be put into place as appropriate to bring a resource home into compliance with Minimum Licensing Standards and division policy or address any other issues identified.

(3) Corrective action plans shall be time-limited, generally not to exceed sixty (60) days.

(d)(1) In addition, a reevaluation shall be conducted whenever there is a major life change.

(2) Major life changes include:

(A) Death or serious illness among the members of the resource family;

(B) Marriage, separation, or divorce (see more detailed information concerning resource parents who plan to marry or divorce below);

(C) Loss of or change in employment;

(D) Change in residence;

(E) Suspected child maltreatment of any child in the resource home; and

(F) The addition of family members (e.g., birth, adoption, aging relative moving in).

(e)(1) If during the monitoring or reevaluation process or at any other time a resource home is found to be out of compliance with any Minimum Licensing Standard or division policy and does not come into compliance within the timeframe noted in a corrective action plan, the division may close a resource home.

(2) In this event, a face-to-face meeting will occur with resource parents to discuss the closure of the home and a written notice will also be provided.

(3)(A) This notice will include information regarding the process for an internal review of adverse action.

(B) For additional information, PUB-30: Resource Parent Handbook regarding Internal Review of Adverse Action Involving Resource Parents.

(4) The notice will also include a summary documenting the reasons for closure, as well as all efforts by the county office to rectify the problem.

(5) The final assessment and determination of closure will be made by the

Resource Worker, in collaboration with designated county staff, the Area Director, and Central Office staff, as appropriate.

(f) **Single resource parents who plan to marry.**

(1)(A) In situations when a resource parent plans to marry (or otherwise move in with/live together with a partner) and wishes to continue providing care to children in foster care, the future spouse or partner will be considered an applicant seeking approval to serve as a resource parent.

(B) The future spouse or partner must also complete preservice training and resource parent orientation.

(C) The resource parent and fiancé or fiancée or partner will be informed that the reevaluation will have to be completed before the fiancé or fiancée or partner can take on the role of resource parent and reside with the children in the home.

(2)(A) If the future spouse or partner does not clear any of the background checks or does not complete preservice training before moving into the home, the home must be made unavailable.

(B) The division will also work toward closing the resource home.

(C) However, decisions regarding when to close the home and move a child currently placed in the home will be made on a case-by-case basis and take into account the reason the future spouse or partner does not qualify as a resource parent (e.g., background checks, failure to complete training) and the impact of a placement move on the child.

(D) The following shall participate in the decision regarding placement moves:

(i) Resource parent;

(ii) Child placed in the home, as age and developmentally appropriate;

(iii) Resource Worker;

(iv) Child's FSW;

(v) Respective supervisors of the Resource Worker and FSW; and

(vi) Child's attorney ad litem.

(g) **Two-parent homes that plan to separate or divorce.**

(1)(A) When approved resource parents who currently have children placed in their home plan to divorce or separate, the Resource Worker will conduct a reevaluation on the resource parent who has elected to continue the role of care provider using the division-approved update/reevaluation tools.

(B) The household member who is no longer in the home will be end-dated in the division information system.

(C) If both individuals wish to continue as resource parents, a new provider service must be initiated for the parent who will be residing at a new address.

(2)(A) The completion and approval of all resource home monitoring visits and reevaluations must be documented in the division information system.

(B) If a resource home reevaluation is not completed and documented annually in the division information system, any Title IV-E eligible child placed in the home will lose Title IV-E eligible claim ability until the reevaluation of the family is completed and documented.

(h) **Continuing education requirements.**

(1)(A) In addition to continuing to meet all minimum licensing standards and division policy requirements as they relate to resource homes, resource parents must also complete a minimum of fifteen (15) hours of division-sponsored or division-approved in-service training annually after the first year of service.

(B) Training classes may cover a wide range of topics related to:

(i) Parenting;

(ii) Child development and behavior; and

(iii) Medical needs.

(C) Continuing education hours may be earned through:

(i) In-person/classroom trainings;

(ii) Online courses;

(iii) Video;

(iv) Television programs; or

(v) Books related to:

(a) Child abuse;

(b) Child development;

(c) Parenting;

(d) Trauma-informed care; and

(e) Other approved topics.

(D) Continuing education hours obtained through videos, books, online courses, or television programs for each resource parent must have prior approval by the assigned Resource Worker.

(E) The Resource Worker will inform resource parents of any training and educational opportunities known to them.

(F) Funds may be available to defray expenses for the resource parent continuing education opportunities.

(G) Prior approval from the local Resource Unit is required for reimbursement.

(2)(A) Resource parents must also maintain current CPR certification and standard first aid training.

(B) Maintenance of CPR certification and first aid training is in addition to the fifteen (15) hours of continuing education and, therefore, cannot be counted as part of the annual fifteen-hour continuing education requirement.

(C) Resource parents must complete their annual in-service training requirements before any additional children in care are placed in their home, unless an exception is granted.

(D) Resource parents who do not meet the in-service training requirements will be notified that they must complete the in-service training requirements within sixty (60) days.

(E) No additional children will be placed in the home during this sixty-day period.

(F) If the resource parents' annual in-service training requirements are more than sixty (60) calendar days overdue, then a reevaluation will also be required unless an extension to meet in-service training requirements has been granted by the

Area Director.

(G) Extensions should be the exception and not the rule.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "CPR" means cardiopulmonary resuscitation.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-812. Resource home reopening.

(a)(1) In order to secure the best placement for each child in foster care, the Division of Children and Family Services seeks to maintain a large pool of quality resource homes.

(2) For this reason, the division will consider reopening resource homes when situations arise where resource parents who previously self-elected to close their home or whose home was closed by the division would like to reopen.

(3) Requirements vary depending on circumstances surrounding the resource home closure.

(b) A reconsideration by the Resource Family Review Committee is required for any closed resource home that has any history of child maltreatment investigations involving the provider as an alleged offender, regardless of:

(1) The outcome of the investigation;

(2) Whether the resource home was closed by the division or closed at the resource parent's request; or

(3) Whether there is documentation indicating the reason for closure was related to the investigation.

(c)(1) The reconsideration to reopen packet will be submitted to the committee via

the Foster Care Manager who will present the request to the committee for consideration.

(2) If a reconsideration to reopen packet is sent to the committee, the assumption is that local staff who submitted the packet are in support of the request.

(3) The committee will review and make recommendations to the Director of the Division of Children and Family Services or designee regarding whether to reopen a resource home.

(4) The director or designee will make the final decision regarding the request.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-813. Reopening a resource home.

(a) For former resource homes that have been closed and express interest in reopening, the Resource Worker will:

(1) Complete new background checks (i.e., Child Maltreatment Central Registry check, applicable out-of-state child maltreatment checks if the applicant has lived or worked in another state outside of Arkansas in the last five (5) years, Division of Arkansas State Police Record check, Federal Bureau of Investigation background check, vehicle safety checks) on all appropriate members of the household regardless of whether previous background checks are still current;

(2) Conduct a reevaluation of the prospective home as an annual reevaluation of any standing resource home would be completed to determine if the prospective resource home would still be an appropriate placement for a child in care, based on the following:

(A) Date and reasons for closure;

(B) Motivation to reopen;

(C) Changes in circumstance since last closure;

(D) Updated in home consultation report;

(E) Recommendations;

(F) Completed background check results;

(G) Original home study; and

(H) Home study updates completed prior to closure of the resource home;

(3) Submit a reconsideration to reopen request to the Resource Family Review Committee via the Foster Care Manager for any resource home that was previously closed and has any history of child maltreatment investigations;

(4) For resource homes closed two (2) years or less, in addition to the steps above, collect documentation of fifteen (15) hours of continuing education training completed;

(5) For resource homes closed more than two (2) years, complete the steps above with the exception collecting documentation of fifteen (15) hours of continuing education training completed and:

(A) Submit a recommendation to complete preservice training again; or

(B) Submit a waiver request packet to exempt applicant from preservice training to include:

(i) Parenting experiences since resource home closure; and

(ii) Training participated in related to trauma, behavior issues, child development, parenting, etc.; and

(6) Notify resource parent of determination and any additional requirements to be completed prior to the resource home reopening, such as CPR/first aid, current physical report, current proof of insurance, etc.

(b)(1) *The exception to this requirement is for a family who is eligible for the streamlined adoption process per Arkansas Code § 9-9-701.

(2) A family is eligible for the streamlined adoption process if the family has adopted a child from the Department of Human Services and then chooses to adopt another child from the department and the department selects the family to be the

adoptive parents of a child in department custody.

(3) An adoptive family is not eligible for the streamlined adoption process if more than five (5) years have passed since the adoptive family finalized the initial adoption.

(4) If a family qualifies for the streamlined adoption process or if there are questions regarding a family's eligibility for the streamlined adoption process, please consult with the local Office of Chief Counsel attorney for additional information and next steps.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "CPR" means cardiopulmonary resuscitation.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-814. Alternate care for children in out-of-home placement.

(a)(1) Alternate care for children in out-of-home placement may be used to assist resource parents when circumstances requiring supervision by an appropriate adult other than the resource parents exist.

(2) The Division of Children and Family Services also promotes the use of certain types of alternate care (e.g., normal age appropriate activities, interaction with a resource family support system) among children and youth to foster normalcy in the lives of children and youth in out-of-home placements.

(b) There are five (5) categories of alternate care:

(1) **Normal age-appropriate activities.**

(A)(i) Children in all out-of-home placement types will be encouraged to participate in extracurricular, enrichment, cultural, or social activities that are age-

appropriate and developmentally appropriate for a child.

(ii) Age and developmentally appropriate activities are those that are generally accepted as suitable for children of the same chronological age and that are determined to be developmentally appropriate for a child, based his or her cognitive, emotional, physical, and behavioral capacities.

(iii) Examples of normal age-appropriate and developmentally appropriate activities include, but are not limited to:

(a) Overnight visits with friends;

(b) School field trips;

(c) School sports or other sport leagues;

(d) Faith-based activities; and

(e) Short-term summer camps.

(B)(i) Resource parents, contract placement providers, and any private provider with whom the Division of Children and Family Services maintains a memorandum of understanding (MOU) will uphold the reasonable and prudent parent standard in regard to children participating in age-appropriate and developmentally appropriate activities.

(ii) The reasonable and prudent parent standard requires resource parents and other out-of-home placement providers to exercise careful and sensible consideration when determining whether an activity for a particular child will not only encourage the emotional and developmental growth of the child, but also maintain the health, safety, and best interests of the child.

(C) The resource family or authorized official of a contract placement provider will use the reasonable and prudent parent standard in determining whether to give permission for a child living in an out-of-home placement to participate in extracurricular, enrichment, cultural, or social normal age-appropriate activities by considering:

(i) The child's chronological age, maturity level, physical and behavioral capacities, and cognitive and emotional developmental levels;

(ii) The potential risk factors and the appropriateness of the activity;

(iii) The best interest of the child, based on information known by the caregiver;

(iv) The importance of encouraging the child's emotional and developmental growth;

(v) The importance of providing the child with the most family-like living experience possible; and

(vi) The behavioral history of the child and the child's ability to safely participate in the proposed activity.

(D)(i) Resource parents are responsible for monitoring extra-curricular activities to ensure a foster child does not become overwhelmed with too many activities.

(ii) Children must have ample time in the resource home for:

(a) Relaxation;

(b) Completion of daily household activities;

(c) Completion of homework; and

(d) Bonding with the resource family.

(E) All contract placement providers as well as any private provider with whom the Division of Children and Family Services maintains an MOU will establish an on-site official who is authorized to apply the reasonable and prudent parent standard to ensure appropriate caregiver liability when approving an activity for a child in an out-of-home placement.

(F)(i) A caregiver is not liable for harm caused to a child who participates in an activity approved by the caregiver, provided the caregiver has acted in accordance with the reasonable and prudent parent standard.

(ii) This subdivision (b)(1)(F) may not be interpreted as removing or limiting any existing liability protection afforded by law.

(G)(i) The Division of Children and Family Services will provide information and skill-based training to resource parents, contract placement providers, and private providers with whom the Division of Children and Family Services maintains an MOU regarding how to apply the reasonable and prudent parent standard for the

participation of a child in age-appropriate and developmentally appropriate activities.

(ii) This training will include sharing knowledge and skill-based applications relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child.

(H) Resource parents, contract placement providers, and private providers will notify the child's FSW if the child will spend more than twenty-four (24) continuous hours outside the approved placement when participating in said activities;

(2) **Child care.**

(A)(i) Child care may be routinely provided as a part of an out-of-home placement case.

(ii) Childcare providers must be on the voucher system and licensed by the Division of Child Care and Early Childhood Education or on the Voluntary Child Care Registry.

(iii) Every attempt should be made to place children in care in a quality childcare setting.

(B)(i) Child care for children may also be provided as a part of an out-of-home placement case to provide assistance to foster parents for nonroutine circumstances that relate to the retention or support of the resource home such as resource parent training.

(ii) Child care provided for such purposes may be reimbursed by the Division of Children and Family Services;

(3) **Babysitting.**

(A) Babysitters may be used to provide occasional care for children in the resource home for no more than eight (8) continuous hours at one (1) time.

(B) Resource parents will exercise careful consideration when evaluating the character and competence of any individual asked to babysit.

(C) Resource parents may reimburse the babysitter if they choose to do so.

(D) The Division of Children and Family Services will not reimburse for babysitting services.

(E) Babysitters will not transport children.

(F) Background checks are not required;

(4) **Resource family support system.**

(A)(i) The resource family support system (RFSS) may be comprised of up to three (3) other households identified by the resource family.

(ii) RFSS members may provide care for children when the resource parent is unable to do so on anticipated or unanticipated events.

(B)(i) Resource parents will exercise careful consideration when evaluating the character and competence of any household asked to serve as an RFSS member.

(ii) RFSS members must be at least twenty-one (21) years of age.

(iii) There is not a standard maximum age limit for RFSS members, but RFSS members must be physically, mentally, and emotionally capable of caring for children for up to seventy-two (72) hours.

(iv) Adoptive parents may not be RFSS members unless they are related to the resource parent (i.e., parent or sibling to the resource parent).

(v) Resource parents may reimburse an RFSS member if they choose to do so.

(vi) The Division of Children and Family Services will not reimburse RFSS members.

(C)(i) Members of a resource family support system may transport children and care for children in the resource home or in the home of the RFSS member.

(ii) However, an RFSS member will not provide care for more than seventy-two (72) continuous hours at one (1) time regardless of the location in which care is provided or regardless of which RFSS member is providing care.

(iii) However, for extenuating circumstances only, the Area Director may approve for a child to stay with an RFSS member for more than seventy-two (72) hours, but no more than seven (7) days.

(iv) To go beyond the seventy-two-hour timeframe requirement, a written request must be submitted to the Area Director explaining the reasons for the

extension request.

(v) The Area Director must approve or deny the request in writing.

(vi) The FSW will be notified when an RFSS member will provide care for more than twenty-four (24) continuous hours.

(vii) RFSS members taking children out-of-state for overnight trips are prohibited.

(D)(i) The resource family support system will not be used in place of respite care or as an out-of-home placement.

(ii) The number of children placed in an RFSS member household must meet all minimum licensing and the Division of Children and Family Services policy requirements.

(E)(i) All prospective RFSS members must be cleared through the Child Maltreatment Central Registry and a Division of Arkansas State Police criminal record check.

(ii) The Division of Children and Family Services will request any other state where the prospective RFSS member has resided in the preceding five (5) years to check its child abuse and neglect registry.

(iii) The Division of Children and Family Services will provide documentation in the case record that the Child Maltreatment Central Registry and Division of Arkansas State Police Criminal Record Checks were received on the prospective RFSS member.

(F)(i) The Division of Children and Family Services will check the traffic violations record for each potential RFSS member.

(ii) The Arkansas State Vehicle Safety Program sets the maximum number of traffic violation points an RFSS member resource parent may be allowed.

(G) Proposed RFSS members' background checks will be processed once the primary resource home with which the RFSS members are associated is approved and opened.

(H) Documentation of at least one (1) visual inspection of the home for evaluation purposes is required of all prospective RFSS members; and

(5) **Respite care.**

(A) When a Resource Family Support System member is not available to provide needed care on a short-term basis, respite care may be utilized in order to temporarily relieve the foster family of the ongoing responsibilities and stresses of care.

(B) There are two (2) types of respite care:

(i)*(a)* Informal respite.

(b) An approved Division of Children and Family Services resource home that can provide temporary care when the resource family support system is unable to assist or for situations in which children will be outside of the resource home for more than seventy-two (72) continuous hours.

(c) An informal respite home may provide care for no more than seven (7) continuous days at one (1) time.

(d) Periods of respite care in an informal respite home lasting longer than seven (7) consecutive days require approval from the Area Director or designee.

(e) If an Area Director approved extension exceeds fourteen (14) continuous days, the regular resource parents' board payment will be affected.

(f) If the child has stayed in any combination of RFSS or informal respite homes (i.e., outside of the regular resource home placement, the total amount of days within those alternate care types cannot exceed fourteen (14) consecutive days as board payment may be affected).

(g) A stay in an informal respite home must be documented in the Division of Children and Family Services information system, but not as a separate/new placement.

(h) The number of children placed in an informal respite home must meet all minimum licensing and Division of Children and Family Services policy requirements.

(i) Resource parents may reimburse an informal respite provider if they choose to do so.

(j) The Division of Children and Family Services will not

reimburse an informal respite provider.

(k) The number of children placed in an informal respite home must meet all Minimum Licensing and the Division of Children and Family Services requirements; and

(ii)*(a)* Formal respite.

(b) A Division of Children and Family Services contract provider who supplies short-term respite care particularly when a child's current placement is at risk of disruption or respite is needed to prevent a residential, acute psychiatric, or similar placement.

(c) Formal respite care should be provided in accordance with a family-driven, youth-guided respite plan and in coordination with a child's behavioral health treatment plan (if applicable).

(d) Formal respite care will be provided for no more than seven (7) days per three-month period.

(e) A stay with a formal respite care provider must be documented in the Division of Children and Family Services information system, but not as a separate/new placement, provided it does not exceed the more than seven (7) days per three-month period.

(f) Longer periods of formal respite care require approval from the Area Director.

(g) If an approved extension exceeds fourteen (14) consecutive days, the regular foster parents' board payment will be affected.

(h) If the child has stayed in any combination of RFSS or informal respite homes before a formal respite stay, the total amount of days within those alternate care types (i.e., outside the regular resource home placement) cannot exceed fourteen (14) consecutive days as board payment may be affected.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of

Arkansas Rules provided as follows:

"06/2022"

9 CAR § 40-815. Providing information to and gathering information from resource parents.

(a)(1) Resource parents will be considered as team members working with other child welfare professionals for the family.

(2) Complete information, such as a child's health and education records, reasons for entering care, siblings, and probable length of placement, will be provided to resource parents at the time of placement.

(3) Additional information, including, but not limited to, a complete copy of the Child and Adolescent Needs and Strengths (CANS) assessment and complete copy of the case plan for each child placed in the home, will be shared promptly with the resource parents.

(4) Resource parents are also allowed to receive a copy of substantiated child maltreatment report for the child in their care.

(b)(1) The child's Social Security number may be given to the resource parents, only if the resource parent must have the number to obtain services, care, or treatment for the child (e.g., to enroll the child in school or to obtain medical treatment when treatment is needed for a child who is not Medicaid eligible).

(2) The resource parent must keep the child's Social Security number confidential and use the Social Security number only for allowable purposes.

(c)(1) In addition, currently or previously licensed resource parents may receive records concerning a child who was previously placed in their resource home that are relevant to the period of time in which the child was placed in that resource home and for which the resource parent has a legitimate need as determined by the Division of Children and Family Services.

(2) Examples may include providing the Social Security number of a child previously placed in the resource home for tax filing purposes.

(d)(1) Resource parents to include preadoptive parents and relative caregivers have the right to be heard in any proceeding held with respect to a child in their care and will be called as a witness to do so.

(2) Division staff are encouraged to support resource parents in sharing information with the court given that resource parents have a significant amount of knowledge about the child's daily functioning, strengths, and needs.

(e) Resource parents will not be made a party to any such proceeding while reunification remains the court ordered goal or solely on the basis that such persons are entitled to notice and the opportunity to be heard.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

9 CAR § 40-816. Division of Children and Family Services contact with children in out-of-home placements.

(a)(1) Regular, quality contact between the Division of Children and Family Services (the division) and a child in an out-of-home placement can be one source of vital constancy for the child.

(2) Consistent contact not only provides some stability in the child's life, but also allows the division to ensure the child's safety and well-being.

(3) As such, the division will have regular visits and other forms of contact with children in out-of-home placements.

(b)(1) The child's Family Service Worker (FSW) will visit the child in his or her approved out-of-home placement at least weekly during the first month of placement and at least weekly in any new placement thereafter.

(2) Visits after the first month in care or in a new placement will occur at least

monthly in the approved out-of-home placement.

(3) During visits in the out-of-home placement, the FSW will engage the age-appropriate child in a private conversation to better assess the quality of care being provided.

(c)(1) In the event the FSW is unable to conduct these regular visits in the out-of-home placement, another FSW or the FSW Supervisor may make the visits in the place of the FSW to ensure the safety and well-being of the child and meet the regular visit requirement.

(2) However, these exceptions will be limited.

(3) While the division support staff (e.g., program assistants) may also visit the child in the out-of-home placement to ensure various needs are met, the regular out-of-home placement visit requirement will not be considered met until an FSW or FSW Supervisor has conducted the regular out-of-home placement visit.

(d)(1) In addition to the visits in the child's out-of-home placement, the FSW will maintain weekly contact with the child through forums such as school, parent-child visits, during transportation to various appointments, family-centered staffings, court hearings, and/or via telephone or programs such as FaceTime and Skype.

(2) Additional contact each week with other division staff such as Program Assistants or division interns or volunteers via telephone, transports, etc., is appropriate, but will not replace the requirement for the child's FSW to maintain weekly contact with the child.

(e) The purpose of these visits and other contact will be to:

(1) Provide the child with accurate information about his or her case at an age and developmentally appropriate level;

(2) Answer questions the child may have;

(3) Engage the child and foster parents, as appropriate, in activities geared to accomplish case plan goals and to ensure the child's needs are being met;

(4) Assess the quality of the care being provided;

(5) Determine and monitor, through conversation and/or observation, the child's safety and the extent to which the child's developmental, medical, intellectual,

and emotional needs are being met; and

(6) Assess the child's adjustment to the out-of-home placement, foster parents, other persons in the home, and school.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2016"

9 CAR § 40-817. Supervision of children in out-of-home placements.

(a) The Family Service Worker will:

(1)(A) Regularly inform the child and placement provider when visits will take place (though unannounced visits are allowable when necessary).

(B) Keep all scheduled visit appointments or, if unable to do so, inform the child and/or provider about the cancellation and reschedule as soon as possible;

(2) Document visits with the child in his or her out-of-home placement on the contact screen with the "Face to Face Placement Provider" selected as the type and "Foster Child Weekly/Monthly" selected as the purpose;

(3) Document all other forms of contact with the child in CHRIS contact screens;

(4) Speak with any PA, secondary FSW, intern, and/or volunteer who has interacted with the child to gather information regarding those interactions and/or review CHRIS contacts entered by other Division of Children and Family Services staff;

(5) Conference with the FSW Supervisor about information collected during regular visits and other contact with the child; and

(6) Update the CANS and/or case plan as appropriate based on visits and other contact with the child.

(b) The Family Service Worker Supervisor will:

(1) Conference with the FSW regarding regular visits and other contact with the child; and

(2) Conduct visits with the child in the out-of-home placement if needed.

(c) The Program Assistant will:

(1) Share information gathered during their contact with children in out-of-home placements with the child's FSW and the PA's supervisor; and

(2) Document contacts with children in out-of-home placements in CHRIS.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2016"

9 CAR § 40-818. Division contact with biological parents, legal custodians, and legal guardians involved in out-of-home placement cases.

(a) Regular communication and quality interaction between the Division of Children and Family Services and the biological parents, the legal custodian, or legal guardian from whom the child was removed (hereinafter to be referred to only as biological parents) throughout the life of an out-of-home services case are critical to sustaining parental engagement and providing appropriate support to help the family work toward achieving reunification.

(b)(1) Early engagement with biological parents whose children have been removed from the home is a first step to the overall success of the case.

(2) The family may often view the division's involvement as an unwelcome intrusion.

(3) This perception may result in a wide of range of reactions from the family including, but not limited to:

(A) Defensiveness;

(B) Hostility;

(C) Resistance; and

(D) Ambivalence.

(4) Nonetheless, the division must examine the underlying cause of the parents' behavior and try to empathize with the parents by striving to engage them in the assessment and case planning process from the beginning of the out-of-home placement case.

(c)(1) When a Family Service Worker (FSW) is assigned to an out-of-home placement case, he or she will conference with the investigator or on-call worker who removed the child from the home within seventy-two (72) hours of case assignment.

(2) The goal of this conference is to gather all pertinent information the investigator may have regarding the family and reasons for removal.

(3)(A) The FSW assigned to the out-of-home placement case will use this information, along with other relevant sources to include any past agency involvement with the family as documented in CHRIS, to begin completing the initial Child Adolescent Needs and Strengths (CANS) for the family and case plan.

(B) See 9 CAR § 40-501, family assessments, and 9 CAR § 40-503, services case plan and related procedures, for more information.

(d)(1) Within five (5) days of the child's entry into the out-of-home placement, the FSW who is primary (i.e., the FSW Investigator if not yet assigned to an FSW Caseworker or the FSW foster care caseworker if the assignment has been made) will attempt to reach the biological parents by phone to schedule the first visit with the biological parents in their residence to update the biological parents on the status of the case at that point and begin the assessment and case planning process.

(2) FSWs are encouraged to make this visit as early during the five (5) days following removal as possible.

(3) Scheduled visits are preferred, but unannounced visits are acceptable as necessary.

(4) If the parents are not at their residence when the FSW attempts the initial visit, the primary FSW will continue to attempt a face-to-face meeting with the

biological parents as soon as possible by trying to reach the parents by phone to schedule a visit and/or making unannounced visits to the home.

(e)(1) Following the initial face-to-face visit with the biological parents, the FSW will meet with the biological parent or parents at least weekly in the residence of the biological parent or parents during the first month the case is opened.

(2) Both announced and unannounced visits are appropriate depending on the dynamics of a particular case.

(f)(1) After the first month of the open case, the FSW and FSW Supervisor will determine whether the frequency of in-home visits with the biological parents will continue to be weekly or be adjusted to biweekly, or, in limited circumstances for cases progressing extremely well, monthly.

(2) During these visits, the FSW Caseworker will:

(A) Assess parents' progress on case plan services and goals;

(B) Assess parents' new or developing needs, strengths, and/or risks;

(C) Include parents in the ongoing assessment and case planning process;

(D) Respond to parents' questions and concerns; and

(E) Provide support and guidance to parents as needed.

(3) If in-home visits with the biological parents will be held on a biweekly or monthly basis, the division will also use other forms of communication with the family to maintain weekly contact and update them on various aspects of their case and their children's progress as appropriate.

(g) Other forms of communication may include telephone calls, text, and email as well as contact with the family through transports and family-centered staffings.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2016"

9 CAR § 40-819. Caseworker contacts with biological parents.

The Family Service Worker will:

(1) Conduct the first face-to-face visit with the biological parents within five (5) days of the child entering an out-of-home placement in order to:

(A) Introduce himself or herself, if not already completed;

(B) Ensure the parents understand the reason for removal;

(C) Collect any information critical to their child's health and well-being not already given to the FSW Investigator or on-call worker at the time of removal including but not limited to:

(i) Child's allergies;

(ii) Child's medications;

(iii) Child's school and/or other educational information;

(iv) Behavioral information regarding the child;

(v) Child's likes and dislikes;

(vi) Support items for the child such as stuffed animals; and

(vii) Names and contact information for potential relative and fictive kin placements.

(D) Begin gathering information about the strengths and needs of the family to assist with the completion of the CANS and case plan;

(2) As part of meeting due diligence in establishing in-person contact with the parent or parents complete as many of the following activities necessary in order to complete the first in home visit or any visits thereafter:

(A) Conduct the appropriate Division of County Operations record checks to attempt to obtain a valid address for the parent or parents;

(B) Ask the local, county, and state law enforcement agencies to check their records for information that may the parent or parents;

(C) Ask relatives and friends of the parent or parents to provide information to help locate the parent or parents;

(D) Contact the local post office, utility companies, and schools to request

a check of their records;

(E) Conduct the Lexis Nexis search to attempt to locate the parent or parents; and

(F) Utilize CFS-155: Unable to Locate Checklist for additional efforts to locate the parent;

(3) Document contacts with biological parent or parents in the case contact screen (workload/case/services/contacts) with the purpose of "Family Contact"; and

(4) Update the CANS and/or case plan as appropriate based on parent visits and other contact.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2016"

9 CAR § 40-820. Child maltreatment allegations concerning out-of-home placements.

(a) **Overview.**

(1)(A) All child maltreatment allegations concerning any person in a resource home will be investigated in accordance with Arkansas Code § 12-18-602 of the Child Maltreatment Act, Arkansas Code § 12-18-601 et seq.

(B) As with all children whose interest becomes the concern of the Division of Children and Family Services, the safety and welfare of all children in foster care will be paramount.

(2)(A) If any child in foster care is the subject (alleged offender or alleged victim) of an allegation of child maltreatment, the Child Abuse Hotline will notify the appropriate Division of Children and Family Services and the Crimes Against Children Division executive staff as well as the Area Director for the Division of Children and

Family Services service area in which the foster home named in the report is located.

(B) The Division of Children and Family Services Area Director will then ensure that the appropriate Division of Children and Family Services staff notify the child's family, the primary and secondary Family Service Worker (FSW) for the child, as applicable, the Office of Chief Council attorney, the child's CASA, if applicable, and the child's attorney ad litem.

(C) The attorneys ad litem for any other children placed in the home will be notified as well.

(3) If there is an allegation of child maltreatment in which a child in foster care is named as the alleged offender, see 9 CAR § 40-313(i), investigation of child maltreatment reports under "Legal representation for child in foster care named as an alleged offender", for more information.

(4) The Crimes Against Children Division will conduct all child maltreatment investigations (Priority I and II) involving a resource parent or household member of a resource home excluding reports that meet differential response criteria involving a child in foster care that allegedly occurred prior to the child entering foster care.

(5)(A) However, when any household member of a resource home, to include resource parents, biological and adopted children of the resource parents, and children in foster care placed in the home, is the subject of a child maltreatment allegation, Division of Children and Family Services staff will also conduct an individualized evaluation to assess the safety of the child within twenty-four (24) hours of the receipt of the report to determine if the child can safely remain in the home during the course of the investigation.

(B) Division of Children and Family Services staff will try to coordinate this visit to the home to assess safety with Crimes Against Children Division staff.

(6)(A) If a safety threat is identified in the resource home, staff will review the Division of Children and Family Services' approved safety assessment for resource providers in consultation with a Division of Children and Family Services supervisor and make a determination regarding whether the child will be moved to another approved placement or an immediate safety plan can be developed to mitigate the safety threat.

(B) If no safety threat is identified but there are other concerns to be addressed related to the resource home or any household members, a corrective action plan may be put in place to allow the child in foster care to remain safely in the resource home.

(C) A corrective action plan is designed to ensure the safety and well-being of the child in the home as long as the concern is not an act or omission rising to the level of a safety threat.

(D) All relevant information will be reviewed to make a decision regarding the implementation of an immediate safety plan or corrective action plan for the resource home.

(E) This includes, but is not limited to:

(i) The characteristics and history of the child in foster care;

(ii) Best interest of the child in foster care;

(iii) The characteristics and history of the resource parents and their own children (if any);

(iv) The nature of the allegation;

(v) Information collected during the investigation; and

(vi) The services, supports, or monitoring that will be put in place during the investigation.

(7)(A) The appropriate Assistant Director or designee must approve all immediate safety plans and corrective action plans for resource homes prior to Division of Children and Family Services staff leaving the home in which the immediate safety plan or corrective action plan will be implemented.

(B) If the safety and welfare standards of the Division of Children and Family Services cannot be met and the child cannot safely remain in the home, the child in care will be moved to another approved placement.

(8)(A) If after the initial safety evaluation conducted by Division of Children and Family Services staff it is determined that there are no risk factors or safety threats present, then neither an immediate safety plan nor a corrective action plan is required while the investigation is being completed.

(B) In these situations, the Area Director may approve leaving the child in the home if it is in the best interest of the child.

(C) The Area Director will notify the appropriate Assistant Director or designee when a child is left in a resource home with a pending investigation but for which neither an immediate safety plan nor a corrective action plan was necessary.

(9)(A) While any resource home is being investigated because of a child maltreatment allegation, no additional children in foster care may be placed there, regardless of whether an immediate safety plan or corrective action plan was required.

(B) As such, the resource home will be placed on unavailable status in the Division of Children and Family Services' information management system.

(b) **Actions for unsubstantiated maltreatment reports involving a child in foster care.**

(1) If the child maltreatment report is unsubstantiated, consideration will be given to:

(A) Ending the corrective action plan for the foster home, if applicable;

(B) Returning any children who may have been removed from the foster home as a result of the allegation; and

(C) Removing the foster home from unavailable status back to available status in CHRIS.

(2)(A) All unsubstantiated reports involving foster homes must be reviewed by the Resource Family Review Committee to discuss lifting the corrective action plan, the placement of the child or children involved, and the availability of the foster home.

(B) Even if a child maltreatment report involving a foster home is unsubstantiated, the Division of Children and Family Services retains the right to continue to leave the home on unavailable status or to close the foster home, as appropriate.

(C) Decisions will be made on a case-by-case basis and will be based on the best interest of the child or children.

(3) The committee meets biweekly but additional meetings may be called on an as needed basis.

(c) **Actions for true maltreatment reports involving a child in foster care pending due process.**

(1) If the child maltreatment report is determined to be true, the corrective action plan for the foster home, if applicable, as well as the overall health and safety of the children will be reevaluated immediately but no later than twenty-four (24) hours from the time the investigative determination is made if the child or children:

(A) Had remained in the home during the course of the investigation; and

(B) Will continue to remain in the home until due process has been met.

(2) If the child and children were allowed to remain in the home during the course of the investigation (with or without a corrective action plan) and must then be removed from the foster home based upon the true determination while due process is pending, all appropriate parties and stakeholders will be notified of the placement change as outlined in 9 CAR § 40-827, changes in out-of-home placement, and related procedures.

(3)(A) Regardless of whether the child or children remain in the home with or without a corrective action plan in place or are removed from the home, the foster home will remain on unavailable status until due process has been satisfied and the home's availability status is reassessed at that point in time by local staff.

(B) Local staff will submit a recommendation regarding the foster home's availability status to the committee.

(4)(A) A staffing, to include the appropriate Division of Children and Family Services Area Director or Directors or designee or designees will be held within three (3) business days of the true determination so that all parties to the case and any other appropriate stakeholders may have input regarding the corrective action plan, if applicable, and/or the placement of the child or children.

(B) The Area Director or Directors or designee or designees may participate by phone.

(5)(A) If the child or children will be left in a home with a true determination while due process is pending, the Division of Children and Family Services Assistant Director of Field Operations or designee will be notified.

(B) The Division of Children and Family Services Assistant Director of Field Operations or designee will notify the Director of the Division of Children and Family Services of the decision.

(C) The Division of Children and Family Services Assistant Director of Field Operations or designee will inform local staff if any changes to the corrective action plan, if applicable, and/or placement of the child or children are needed.

(d) **Actions for true maltreatment reports involving a child in foster care upon satisfaction of due process.**

(1)(A) If the foster home is still open and the child or children still remains in the home, then upon satisfaction of due process, regardless of the result of the administrative hearing (if applicable), the safety and well-being of each child who is in the home will be reassessed at a staffing.

(B) This staffing will include the appropriate Division of Children and Family Services Area Director or Directors or designee or designees held within three (3) business days of the administrative hearing.

(C) The Area Director or Directors may participate by phone.

(2)(A) This staffing will allow all parties to the case and any other appropriate stakeholders to have input regarding the reassessment and the placement of the child or children as applicable.

(B) Decisions will be made on a case-by-case basis and will ensure the best interest of the child or children.

(C) The recommendation or recommendations from this staffing will be submitted to the Assistant Director of Field Operations for final approval.

(D) The Division of Children and Family Services Assistant Director of Field Operations will then notify the Division of Children and Family Services Director.

(3)(A) If it can be shown that it is in the best interest of any child to remain in the home, an alternative compliance or policy waiver may be requested if needed (due to a true finding that is upheld) to allow the foster home to remain open to care for the child or children.

(B) The Director of the Division of Children and Family Services or

designee must approve any alternative compliance or policy waiver needed to allow a foster home to remain open when a true finding is upheld.

(4)(A) For any foster home that has a true finding upheld at the administrative hearing, that home will remain on unavailable status if the child or children involved in the report are allowed to remain in the home because it is in the child or children's best interest to do so.

(B) The foster home will then be closed once the child or children who was or were allowed to stay in the home due to it being in the child's or children's best interest, exits foster care or otherwise achieves permanency.

(5)(A) For foster homes that remain open following a true determination that the foster family either chose not to appeal or had a true determination overturned, that foster home will be reevaluated by the FSW Resource Worker with input from the FSW Caseworker, FSW Casework Supervisor, Resource Worker Supervisor, and County Supervisor.

(B) The reevaluation will also determine what may be necessary (e.g., additional training, revisions to the characteristics of children allowed to be placed in the home, etc.) to ensure the health and safety of any and all children placed in the home.

(6)(A) Based on the results of the reevaluation, if the recommendation is to place the foster home back on available status, that request will be submitted to the committee.

(B) The recommendation will also include what may be necessary (e.g., additional training, revisions to the characteristics of children allowed to be placed in the home, etc.) to ensure the health and safety of any and all children placed in the home.

(7) The Division of Children and Family Services retains the right to continue to leave the foster home on unavailable status or to close the foster home, as appropriate.

(8)(A) If the foster home had been closed at some point during the process and requests to reopen due to a determination being overturned on appeal, the FSW Resource Worker will collaborate with other applicable local staff to determine if local

staff members think it is an appropriate request for the home to be reopened.

(B) If local staff decide to pursue reopening a foster home, a request will be submitted to the committee.

(9) After the completion of an investigation (once due process is satisfied) involving a foster home in which a child in foster care is the alleged victim or the alleged offender, the child's Child and Adolescent Needs and Strengths (CANS) assessment will be updated.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-821. Initial report response.

(a) When any initial report of child maltreatment is made and concerns any person in a resource home, the Crimes Against Children Division investigator will begin an investigation within twenty-four (24) hours for Priority I allegations or within seventy-two (72) hours for Priority II allegations.

(b) The assigned Division of Children and Family Services staff will then:

(1)(A) Within twenty-four (24) hours, assess the safety and risk of the child victim and any other children in the resource home and determine if the child or children in care can remain in the home with the implementation of a corrective action plan for the resource home on an individual, case-by-case basis.

(B) This includes determining the placement structure that best meets all the needs of the children and all members of the resource home.

(C) For example:

(i) The alleged victim child in care may be removed from the home;

(ii) The alleged offender child may be removed from the home; or

(iii) Any of the children in care who are neither an alleged offender nor an alleged victim may be removed or remain in the home based on an individual, case-by-case determination of what is in their best interest and welfare;

(2) If a corrective action plan for the resource home is implemented:

(A) Develop the corrective action plan for the resource home with the resource parents and child or children in the home, as age and developmentally appropriate, review it, and answer any questions the participants may have;

(B) Utilizing the appropriate chain of command, notify the appropriate Assistant Director or designee of the corrective action plan via phone prior to leaving the home; and

(C) If the corrective action plan is approved by the appropriate Assistant Director or designee:

(i) Leave a copy of the corrective action plan with the resource parents;

(ii) File the corrective action plan for the resource home in the provider record;

(iii) Document the corrective action plan for the resource home and reasons behind the implementation of the plan in contacts in the Division of Children and Family Services' information management system;

(iv) Inform other parties to the case of the corrective action plan for the resource home immediately but no later than the next business day via email or text; and

(v)*(a)* Visit the home at least weekly to meet with the children and resource parents while the corrective action plan for the resource home is in place.

(b) During the home visit, meet individually with resource parents and children in care, if age appropriate, to assess the corrective action plan for the resource home, the continued well-being of the children, and to determine any adjustments that may need to be made;

(3) If the child or children must be removed, which includes removal because the appropriate Assistant Director or designee does not approve the corrective action

plan by phone, refer to 9 CAR § 40-827, changes to out-of-home placement, and related procedures regarding notifications of the placement move;

(4) Provide a briefing of the safety assessment within twenty-four (24) hours of conducting the safety assessment by emailing the completed CFS-329: Child in Foster Care Maltreatment Disclosure Case Briefing Summary to the division Assistant Director of Field Operations or designee, the Assistant Director of Prevention and Reunification, and the Child Protective Services (CPS) Manager;

(5)(A) Notify immediately, but no later than five (5) business days, the child's or children's custodial/noncustodial parent's or parents' attorney ad litem and Office of Chief Counsel attorney whenever the child is the victim or offender named in an allegation of child maltreatment.

(B) Notify via email, text, and/or with the following forms:

(i) CFS-204-A: Notice of Child Maltreatment Allegation to Legal Parent(s), Legal Guardian(s) and Current Resource Parent(s) of Alleged Offender in Foster Care;

(ii) CFS-205-A: Notice of Child Maltreatment Allegation to Legal Parent(s), Legal Guardian(s), and Current Resource Parent(s) of Alleged Victim(s) in Foster Care;

(iii) CFS-208-A: Notice of Child Maltreatment Allegation to Attorney Ad Litem and CASA of Alleged Offender; and

(iv) CFS-206-A: Notice of Child Maltreatment Allegation to Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim(s); and

(6) Notify attorneys ad litem for all children placed in the same out-of-home placement but not named as victims in the report via email, text, or the CFS-209-A: Notice of Child Maltreatment Allegation to AAL or CASA of Child in Resource Home Where Maltreatment Is Reported or Where an Alleged Juvenile Offender or Underaged Juvenile Offender is Placed immediately, but no later than five (5) business days.

(c) The Area Director or designee will:

(1) Ensure the appropriate division field staff are notified (examples include,

but are not limited to, notifying County Supervisor or Supervisors, FSW Unit Supervisor or Supervisors, and primary and secondary FSWs for the child or children) of the allegation so that these staff can then notify the child's or children's family, the Office of Chief Counsel attorney, the child's or children's CASA, if applicable, and the child's or children's attorney or attorneys ad litem of the allegation;

(2) Notify the Resource Worker and Resource Worker Supervisor of the maltreatment allegation so that the Resource Worker may place the home on unavailable status in the Division of Children and Family Services' information management system; and

(3) Conference with FSW Supervisor as needed.

(d) The FSW Supervisor will:

(1) Conference with the FSW as needed; and

(2) Notify the Area Director of the initial response outcomes.

(e) The Resource Worker will:

(1) At the direction of the Area Director or designee, classify the home under investigation as "unavailable" in the Division of Children and Family Services' information management system immediately but no later than the next business day, so that no additional children may be placed in that home until the resolution of the investigation; and

(2) Assist with the monitoring of the corrective action plan for the resource home as appropriate.

(f) The Assistant Director of Field Operations or designee will:

(1) Notify the Director of the Division of Children and Family Services when a child is left in a resource home in which a member of the resource household has been named as an alleged offender and a corrective action plan has been implemented to allow the child to stay in the home in order to ensure the child's best interest;

(2) Review the CFS-329: Child in Foster Care Maltreatment Disclosure Case Briefing Summary;

(3) Conference with field staff as necessary; and

(4) Share the CFS-329: Child in Foster Care Maltreatment Disclosure Case

Briefing Summary with the Assistant Director of Placement Supports and Community Outreach and the Foster Care Manager as appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-822. Response to unsubstantiated findings.

(a) If the child maltreatment allegation is unsubstantiated, the FSW Resource Worker will:

(1) Collaborate with the FSW Investigator and the child's or children's FSW Caseworker to write a request to the Resource Family Review Committee regarding how to proceed with the resource home;

(2)(A) Submit a request to the committee within one (1) week of the determination.

(B) The request will include the FSW Resource Worker's recommendation regarding:

(i) Ending the corrective action plan for the resource home, if applicable;

(ii) The placement arrangements for the child or children (such as returning any children who may have been removed from the resource home as a result of the allegation);

(iii) Whether the resource home will be left on unavailable status or be returned to available status; and

(iv) Whether any other actions are required;

(3)(A) Participate in the committee meeting upon request.

(B) Phone participation in the committee meeting is acceptable; and

(4) Update the status of the resource home in the Division of Children and Family Services' information management system as needed as well as in the contacts screen as necessary.

(b) The Resource Worker Supervisor will:

(1) Conference with the FSW Resource Worker as needed;

(2)(A) Participate in the committee meeting upon request.

(B) Phone participation in the committee meeting is acceptable; and

(3) Update the Area Director as needed.

(c) The FSW Investigator will:

(1) Collaborate with the FSW Resource Worker and the child's or children's FSW Caseworker to write a request to the committee regarding how to proceed with the resource home; and

(2)(A) Participate in the committee meeting upon request.

(B) Phone participation in the committee meeting is acceptable.

(d) The FSW Caseworker for the child or children will:

(1) Collaborate with the FSW Resource Worker and the FSW Investigator to write a request to the committee regarding how to proceed with the resource home;

(2)(A) Participate in the committee meeting upon request.

(B) Phone participation in the committee meeting is acceptable; and

(3) Update the child's or children's strength and needs assessment following the implementation of the committee's decision.

(e) The FSW Supervisor or Supervisors will:

(1) Conference with the FSW Investigator and FSW Caseworker as needed; and

(2)(A) Participate in the committee meeting upon request.

(B) Phone participation in the committee meeting is acceptable.

(f)(1) The Area Director or designee will participate in the committee meeting upon request.

(2) Phone participation in the committee meeting is acceptable.

(g) The committee will:

(1) Review the request from the FSW Resource Worker and determine the appropriate action or actions that may include, but are not limited to:

(A) Ending the corrective action plan for the resource home, if applicable;

(B) Revising the placement arrangements for the child or children (examples include, but are not limited to, returning any children who may have been removed from the resource home as a result of the allegation);

(C) Determining whether the resource home will be left on unavailable status or be returned to available status; and

(D) Determining whether any other actions are required;

(2) Notify the FSW Resource Worker who submitted the request of the committee's decision in writing within one (1) business day; and

(3) Document the recommendation in the provider screen in the division's information management system.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-823. Response to true determination pending due process.

(a) If the child maltreatment allegation is determined to be true, the FSW Caseworker will:

(1) Reassess the corrective action plan for the resource home, if applicable, in collaboration with the FSW Resource Worker and FSW Investigator;

(2)(A) Remove any or all of the children from the home, determined on a case-by-case basis in consultation with the FSW Supervisor, if necessary, to ensure their safety and well-being.

(B) If the child or children must be removed, refer to 9 CAR § 40-827, changes to out-of-home placement, and related procedures regarding notifications of the placement move;

(3) Hold a staffing within three (3) business days of the determination with the FSW Supervisor, FSW Resource Worker, and, if needed, the FSW Investigator to decide if the corrective action plan for the resource home, if applicable, needs to be revised and/or if changes to the child's or children's placement are needed until due process for the resource parents has been met;

(4) Update contacts in the Division of Children and Family Services' information management system as necessary; and

(5) Update the FSW Resource Worker and Resource Worker Supervisor as necessary.

(b) The FSW Resource Worker will update the availability of the resource home and contacts in the division's information management system as applicable.

(c) The Area Director or designee will:

(1) Participate in the staffing upon request to determine if the corrective action plan for the resource home, if applicable, needs to be revised or if changes to the child's or children's placement are needed until due process for the resource parents has been met; and

(2) Notify the Assistant Director of Field Operations or designee if the child or children will remain in a resource home with a true determination while due process is pending.

(d) The Assistant Director of Field Operations or designee will notify the Director of the Division of Children and Family Services if the child or children will remain in a resource home with a true determination while due process is pending.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-824. Response to true determination overturned on administrative appeal when the resource home is still open.

(a) The FSW Caseworker will:

(1)(A) Arrange and hold a staffing with the FSW Supervisor, Resource Worker, and Resource Worker Supervisor within three (3) business days of the administrative hearing to determine on a case-by-case basis if it is in the best interest of the children to remain in or return to that resource home, as applicable.

(B) If the results of the staffing determine that it is appropriate to allow the children involved in the allegation to remain in or return to the home, reassess the corrective action plan, if applicable, for the resource home, and adjust accordingly if necessary.

(C)(i) If the staffing determines that any children still in the resource home must be removed, remove the children from the home.

(ii) If the child or children must be removed, refer to 9 CAR § 40-827, changes to out-of-home placement, and related procedures regarding notifications of the placement move;

(2) Conference with the FSW Supervisor, Resource Worker, and Resource Worker Supervisor regarding the recommendation as to whether the resource home will be left on unavailable status or returned to available status and if any other actions are required; and

(3) Update contacts in the Division of Children and Family Services' information management system as necessary.

(b) The Area Director or designee will:

(1) Participate in the staffing upon request regarding the placement of the children;

(2) Submit the recommendation developed during the staffing regarding the placement of the children to the Assistant Director of Field Operations or designee for

final approval; and

(3) Conference with the FSW Supervisor and Resource Worker Supervisor regarding the recommendation as to whether the resource home will be left on unavailable status or returned to available status and if any other actions are required.

(c) The Resource Worker will:

(1) Take lead on the reevaluation of the resource home if it is still open;

(2) Conference with the FSW, FSW Supervisor, and Resource Worker Supervisor regarding the recommendation as to whether the resource home will be left on unavailable status or returned to available status and if any other actions are required;

(3) Submit the recommendation, if applicable, to place the resource home back on available status to the Resource Family Review Committee;

(4) Based on the response from the committee, update the status of the resource home in the division's information management system, if applicable, or close the resource home in the division's information management system, if applicable;

(5) Complete CFS-475-F: True Reports of Child Maltreatment Against Resource Family Members and file it in the provider record;

(6) Complete CFS-475-G: Checklist for Resource Home Closure and other required steps to close a resource home, if applicable; and

(7) Update contacts in the division's information management system as necessary.

(d) The Assistant Director of Field Operations or designee will notify the Director of the Division of Children and Family Services or designee of the decision regarding placement of the children and availability status of the resource home.

(e) The committee will:

(1) Review the recommendation from the FSW Resource Worker as to whether the resource home will be left on unavailable status or returned to available status and if any other actions are required; and

(2) Notify the FSW Resource Worker who submitted the request of the committee's decision in writing within one (1) business day.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-825. Response to true finding overturned on administrative appeal when the foster home has previously been closed.

(a)(1) If the resource home has been closed and requests the Division of Children and Family Services to reopen the home, the FSW Resource Worker will arrange and hold a staffing within three (3) business days of the administrative hearing to determine on a case-by-case basis if the local staff believe it is appropriate to pursue reopening the resource home.

(2) If local staff believe it is appropriate to pursue reopening the resource home, collaborate with other local staff, as appropriate, to write a request to the Resource Family Review Committee to consider reopening the resource home and submit the request to the committee.

(3) If local staff believe it is not appropriate to pursue reopening the resource home, inform the family of the decision.

(4) The following staff shall participate in this staffing:

(A)(i) Resource Worker Supervisor.

(ii) The Resource Worker Supervisor will update the Area Director regarding the decision if the Area Director did not participate in the staffing;

(B) FSW Investigator;

(C) FSW Caseworker; and

(D) Area Director or designee on a case-by-case basis and upon request.

(b) The committee will:

(1) Review the request from the FSW Resource Worker and determine if it is

appropriate to reopen the home and, if so, under what conditions (examples include, but are not limited to, once additional training has been completed or with certain restrictions on characteristics of children that can be placed in the home); and

(2) Notify the FSW Resource Worker who submitted the request of the committee's decision in writing within one (1) business day.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-826. Response to true determination upheld on administrative appeal.

(a)(1) If the true determination is upheld by the administrative hearing, the resource home may remain open for any of the children currently placed in the home if it can be shown that it is in the best interest of the child or children to remain in the home.

(2) This will be done on an individual basis for each child.

(b) The FSW will:

(1)(A) Arrange and hold a staffing with the FSW Supervisor, Resource Worker, and Resource Worker Supervisor within two (2) business days of the administrative hearing to determine on a case-by-case basis if it is in the best interest of the child or children to remain in that resource home, if applicable.

(B) If the results of the staffing determine that it is appropriate to allow the child or children involved in the allegation to remain in the home, reassess the corrective action plan for the resource home and adjust accordingly if necessary.

(C)(i) If the staffing determines that any child or children still in the resource home must be removed, remove the child or children from the home.

(ii) If the child or children must be removed, refer to 9 CAR § 40-827, changes to out-of-home placement, and related procedures regarding notifications of the placement move.

(iii) Staff are highly encouraged to update the child's strengths and needs assessment during this staffing or once the child or children moves into a new placement, if applicable;

(2) Conference with the FSW Supervisor, Resource Worker, and Resource Worker Supervisor regarding at what point the resource home will be closed;

(3) Provide the Resource Worker with any needed or requested information for an alternative compliance or policy waiver request, if applicable;

(4) Update contacts in the Division of Children and Family Services' information management system as needed; and

(5) If at any point the policy waiver or alternative compliance request is denied:

(A) Conference with the FSW Supervisor;

(B) Remove the child or children in care from the resource home; and

(C) Refer to 9 CAR § 40-827, changes to out-of-home placement, and related procedures regarding notifications of the placement move.

(c) The Area Director or designee will:

(1) Participate upon request in the staffing to determine on a case-by-case basis if it is in the best interest of the children to remain in that resource home, if applicable;

(2) Submit the recommendation from the staffing to the Assistant Director of Field Operations or designee for final approval;

(3) Review any received policy waiver or alternative compliance request or requests and supporting materials for resource homes for which a true finding has been upheld and the child or children will remain in that home due to it being in the best interest of the child or children;

(4) Grant or deny approval for policy waiver or alternative compliance request or requests as appropriate; and

(5) If approved, forward the request or requests to the Director of the Division of Children and Family Services or designee for approval.

(d) The Resource Worker will:

(1) Complete any necessary documents for requesting that the resource home be granted an alternative compliance or policy waiver (see Appendix F: Alternative Compliance and Policy Waiver Protocol for more information), if needed, to allow the resource home to remain open for the child or children involved in the report because it is in their best interest to remain in that home;

(2) Complete CFS-475-F: True Reports of Child Maltreatment Against Resource Family Members and file it in the provider record;

(3) Forward all applicable case information for the alternative compliance or policy waiver request, including investigative outcomes, strengths and needs assessment, and the corrective action plan for the resource home, to the Resource Worker Supervisor for review;

(4)(A) Inform the FSW and FSW Supervisor of the outcome of the alternative compliance and/or policy waiver request.

(B)(i) Close any resource home that is denied a policy waiver or alternative compliance approval at any point during the request review and document in the division's information management system that the home is closed.

(ii) Provide the reason for closure in the division's information management system.

(C) Update contacts in the division's information management system regarding the results of any alternative compliance or policy waiver request and as otherwise necessary; and

(5)(A) Complete CFS-475-G: Checklist for Resource Home Closure, as applicable, and file the form in the provider record.

(B) Complete all other required steps to close a resource home.

(e) The Resource Worker Supervisor will:

(1) Review any alternative compliance or policy waiver requests and supporting documentation, if applicable; and

(2) Forward any alternative compliance or policy waiver requests and supporting documentation, if applicable, to the Area Director.

(f) The Assistant Director of Field Operations will notify the Director of the Division of Children and Family Services or designee of the decision regarding placement of the children and availability status of the resource home.

(g) The Director of the Division of Children and Family Services or designee will:

(1) Review any received policy waiver or alternative compliance request or requests and supporting materials;

(2) Grant or deny approval for policy waiver or alternative compliance request or requests as appropriate; and

(3) If approved, forward any alternative compliance request or requests to the Placement and Residential Licensing Unit (PRLU) Administrator and staff.

(h) The Placement and Residential Licensing Unit (PRLU) Administrator or designee will:

(1) Review the request for an alternative compliance; and

(2) Place the request on the agenda of the next scheduled meeting of the Child Welfare Agency Review Board.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2025"

9 CAR § 40-827. Changes in out-of-home placement.

(a)(1) The Division of Children and Family Services recognizes that stable placements for children in Department of Human Services custody result in a lesser amount of trauma to and better long-term outcomes for children who must come into foster care.

(2) Family preservation services or formal respite services shall be utilized if necessary to address issues in the out-of-home placement in order to prevent disruption.

(3) Notice will be provided as outlined below whenever a child:

(A) Has a change in out-of-home placement excluding normal age appropriate activities;

(B) Stays with a foster family support system; or

(C) Has informal respite stays.

(b) **Foster parent request for placement change.**

(1)(A) When foster parents request a child in foster care be removed from their home, excluding an emergency that places the child or a family member at risk of harm, the foster parents must attend a staffing within forty-eight (48) hours of the request to discuss what services or assistance may be needed to stabilize the placement.

(B) This staffing does not impact other required staffings and should only be conducted to help stabilize the placement and/or planning for the child's placement.

(2)(A) The child in foster care, the child's attorney ad litem, and a CASA, if appointed to the case, shall be notified so they can attend and participate in the staffing and planning for the child's placement.

(B) Other participants may be invited to the staffing as appropriate (e.g., child's therapist, teacher, etc.).

(3)(A) If the placement cannot be stabilized as a result of the staffing, then the foster parents will continue to provide for the child in foster care until an appropriate alternative placement is located, but this shall not be longer than five (5) business days from the day the staffing was held.

(B) Written notifications of any placement changes will be provided to all required parties as described below.

(c) **Nonemergency placement changes.**

(1)(A) Nonemergency placement changes include a planned transfer to another foster home or residential setting that better meets the child's needs, a trial

home placement, and a return to the parent/legal custodian when a child exits care.

(B) Changes in placement shall be made only after notification to the:

(i) Age-appropriate child;

(ii) Foster parent;

(iii) Court;

(iv) Office of Chief Counsel attorney;

(v) Attorney ad litem; and

(vi) Child's birth parents.

(C)(i) Notices shall be sent in writing two (2) weeks prior to the proposed change.

(ii) The notice shall:

(a) Specify reasons for the proposed change;

(b) Provide to the attorney ad litem the address of the proposed new out-of-home placement; and

(c) Provide to the child the name and telephone number of the attorney ad litem.

(2) Exceptions to the advance notice requirement will be made if the:

(A) Health or welfare of the child would be endangered by delaying a change in placement (including court-ordered placements; see below for information regarding emergency placement changes); or

(B) Child is placed in a placement intended to be temporary until a stable placement can be located for the child.

(3)(A) The age-appropriate child will be notified of the right to:

(i) Appeal the change; and

(ii) Request assistance from the attorney ad litem.

(B) Preplacement visits shall be conducted when possible before a change in placement.

(4)(A) If a placement change is occurring because the child is exiting foster care, then as with all closures of out-of-home placement cases, discharge planning must be conducted to ensure the health and safety of the child at case closure.

(B) The health and safety assessment and risk assessment are tools to be used in determining case closure.

(C) Discharge planning must be done at the staffing to close the case.

(5)(A) Minimum licensing standards require that a discharge summary be completed on each child and a copy given to the child's parents if the Division of Children and Family Services has not been granted termination of parental right by the court.

(B) A copy of the discharge summary must become a part of the child's case file.

(d) **Emergency placement changes.**

(1)(A) Within twenty-four (24) hours of the emergency change in placement, the department shall notify the birth parent or parents, the Office of Chief Counsel attorney, and the child's attorney ad litem of the change.

(B) Within seventy-two (72) hours of the emergency change in placement, the department shall provide written notice to the Office of Chief Counsel attorney and attorney ad litem with the:

(i) Name and address of the new out-of-home placement provider; and

(ii) Specific reasons justifying the change of placement without advance notice.

(2)(A) If an agent, employee, or contractor of the department fails to comply with the emergency notice of change in placement requirements, then an action for violation of the requirement may be filed by any party to the action against the person who failed to comply with the requirement.

(B) The court will determine the assessment of punishment with the most probable punishment being cited as contempt of court.

(C) In addition, if the court finds the agent, employee, or contractor of the department failed to comply with the requirement, then the court may order the department or the agent, employee, or contractor to pay all of the costs of the proceedings brought under this requirement.

(e) **Notification of placement changes to the Division of Children and Family Services Eligibility Unit.**

(1) The Division of Children and Family Services Eligibility Unit will be notified automatically via CHRIS when placement changes that are entered into CHRIS affect the child's Medicaid eligibility.

(2) This includes when the child moves to an out-of-state placement, is placed in a Division of Youth Services facility or juvenile detention center, is on runaway status, is on a trial home visit, returns home, is adopted, or otherwise exits foster care.

(3) The child's Medicaid case will close the date the child's foster care case is closed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-828. Foster parent request for placement change.

(a) If a request for removal is made by the foster parent, the Family Service Worker will:

(1)(A) Remove the child immediately without holding a staffing if the request for removal from the foster parent meets the definition for "imminent harm."

(B) Imminent harm is defined as an emergency that places the child or a family member at risk of harm;

(2) Prepare for a staffing to be held within forty-eight (48) hours of notification of a request for removal from the foster parent and immediately notify the Office of Chief Counsel attorney, attorney ad litem, CASA, and the child in foster care (if age appropriate) of the staffing:

(A) Date;

(B) Time; and

(C) Location;

(3) If appropriate, request by phone, fax, or email that a licensed mental health professional or private mental health provider attend, or otherwise participate, in the staffing;

(4)(A) Hold a staffing within forty-eight (48) hours of notification of a request for removal from the foster parent.

(B) If the request is made on the weekend or a holiday, the staffing must be held by the close of business of the next working day;

(5) Make an appropriate alternative placement within five (5) business days from the date of the staffing, if the placement cannot be stabilized; and

(6) See 9 CAR §§ 40-822 and 40-823, as applicable, for information regarding providing written notices of placement changes to appropriate parties.

(b) The Family Service Worker Supervisor will conference with FSW as necessary regarding change in placement.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-829. Nonemergency changes in out-of-home placement.

(a) The Family Service Worker will:

(1) Conference with supervisor as necessary regarding change in placement;

(2) Provide written notice to the child's birth parent or parents at least two (2) weeks prior to any placement changes via the completed CFS-300: Parent Notification of Change in Placement;

(3) Provide written notice to the child (if age appropriate), the foster parents,

the child's attorney ad litem, the child's Office of Chief Counsel attorney, and the court at least two (2) weeks prior to any placement changes via the completed CFS-300-A: Attorney Ad Litem/CASA, and Child Notification of Change in Placement;

(4) Place copies of the completed CFS-300: Parent Notification of Change in Placement and CFS-300-A: Attorney Ad Litem/CASA Notification of Change in Placement in the child's record;

(5)(A) Select the out-of-home placement that best fits the needs of the child.

(B)(i) A child who has been identified as an exempted-from-finding underaged juvenile offender or sexual offender must not be placed in a foster home with other children, unless the child's therapist provides written notification that the child is no longer a danger to other children.

(ii) Place any written notifications from the child's therapist in the child's hard copy file.

(C)(i) If the recommended placement is a facility, the facility must receive information regarding the allegations.

(ii) Document in the recommended placement screen in CHRIS that facility received information regarding allegations for a child with an exempted-from-finding underaged juvenile offender or sexual offender;

(6) Arrange for a preplacement visit;

(7) Provide new address to attorney ad litem;

(8) Inform age-appropriate child of the right to appeal a change in placement;

(9) Update child placement information in CHRIS (updating the placement information will open a response window to notify the Eligibility Unit of the placement change); and

(10) Document submission of the CFS-300: Parent Notification of Change in Placement and CFS-300-A: Attorney Ad Litem/CASA Notification of Change in Placement in the CHRIS document tracking screen.

(b) The Family Service Worker Supervisor will conference with FSW as necessary regarding change in placement.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-830. Emergency changes in out-of-home placement.

(a) The Family Service Worker will:

(1) Notify the FSW supervisor immediately of the emergency placement change;

(2)(A) Notify the child's birth parent or parents, Office of Chief Counsel attorney, and attorney ad litem by phone or in person within twenty-four (24) hours of the emergency placement change.

(B) If the whereabouts of the parent are unknown, reasonable diligence to locate the parents must be made and documented;

(3) Provide the attorney ad litem with the name, address, and telephone number of the new foster home or placement provider within twenty-four (24) hours of the emergency placement change;

(4) Provide written notice to the child's birth parent or parents within seventy-two (72) hours of the emergency placement change via the completed CFS-300: Parent Notification of Change in Placement;

(5) Provide written notice within seventy-two (72) hours of the emergency placement change to the attorney ad litem via the completed CFS-300-A: Attorney Ad Litem/CASA, and Child Notification of Change in Placement;

(6) Place a copy of the completed CFS-300-A: Attorney Ad Litem/CASA Notification of Change in Placement in the child's record;

(7)(A) Update child placement information in CHRIS.

(B) Updating the placement information will open a response window to notify the Eligibility Unit of the placement change; and

(8) Document submission of the CFS-300: Parent Notification of Change in Placement and CFS-300-A: Attorney Ad Litem/CASA Notification of Change in Placement in the CHRIS document tracking screen.

(b) The Family Service Worker Supervisor will conference with the FSW as necessary regarding change in placement.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-831. Financial support to resource parents.

(a) The Division of Children and Family Services provides foster care maintenance payments for a child in foster care to help defray the costs of providing:

(1) Food;

(2) Shelter;

(3) Clothing;

(4) Daily supervision;

(5) Standard school supplies;

(6) A child's personal incidentals;

(7) A reasonable monthly allowance to the child depending on the child's age and other factors;

(8) Liability insurance with respect to the child; and

(9) Reasonable travel to the child's daycare, school, or extracurricular activities.

(b)(1) The foster care maintenance payment is more frequently referred to as a monthly board payment.

(2) The monthly board payment is:

(A) For the period:

(i) Starting on the first of the month; and

(ii) Ending the last day of the month; and

(B) Paid by the fifteenth of the subsequent month.

(3) If a child is absent from the resource home for hospitalization or a trial placement for ten (10) days or less and is to return to that resource home, no change of status in the division's information management system is necessary.

(4) However, the child's Family Service Worker (FSW) must always be advised of an absence from the home.

(5) The agency pays according to the number of nights a child is in the resource home.

(6) Payment for stays of less than twenty-four (24) hours will be based upon a daily rate determined by the division.

(7) If a child is in the home for part of a month, a partial board payment will be made.

(c)(1) Resource parents may choose to have their board payment directly deposited into their checking account or issued as a paper warrant and mailed to the resource home.

(2) The division strongly encourages the use of direct deposit to prevent payment delays when a warrant is lost in the mail or misplaced.

(d)(1) For children who are Title IV-E eligible and placed in a Title IV-E reimbursable foster care placement, Title IV-E funds the board payment.

(2) For children who are either not Title IV-E eligible or who are placed in a non-Title IV-E reimbursable foster care placement, other appropriate funding streams fund the board payment.

(e) **Standard board rate.**

(1)(A) The division shall pay resource parents a standard monthly board rate according to the chart below.

(B) These rates are effective for board payments beginning August, 2023, and continuing thereafter.

(2) The division shall review the amount of payment made for foster care maintenance every five (5) years to ensure continued appropriateness.

Birth through 5 years	**$451.00 Monthly**
Board and Care	381.00
Clothing	50.00
Personal Needs	20.00
6 through 11 years	**$484.00 Monthly**
Board and Care	397.00
Clothing	57.00
School and Personal Needs	30.00
12 through 14 years	**$517.00 Monthly**
Board and Care	410.00
Clothing	67.00
School and Personal Needs	40.00
15 through 17 years	**$550.00 Monthly**
Board and Care	425.00
Clothing	80.00
School and Personal Needs	45.00

(f) **Special board rate.**

(1)(A) When resource parents are caring for a child with special needs and the child's needs cannot be met with the standard board payment, the division may provide the resource parents with a board payment that exceeds the standard board rates listed above.

(B) This is referred to as a special board rate.

(2) **Increased special board rates.**

(A)(i) The amount of higher special board rates will be based on:

(a) The nature and extent of the child's special needs; and

(b) Any additional activities that a resource parent takes part in to support those needs.

(ii) Increased special board payments may also be considered when the resource parent is directly involved in certain family time activities that support reunification.

(B)(i) To determine the exact amount of an increased special board rate, local division staff will:

(a) Complete the CFS-304: Justification of Special Board Rate after receiving documentation of the child's special needs and any additional activities required of or offered by the resource parents to meet those needs; and

(b) Submit to the division Area Director.

(ii) The Area Director or designee will have final approval of the CFS-304: Justification of Special Board Rate.

(iii) The Area Director may consult with the division foster care unit manager or designee for review and technical assistance as needed.

(iv) Any special board rate over one thousand dollars ($1,000) will also be reviewed and approved or denied by the Assistant Director of Field Operations or designee.

(C) Other reasons for an increased special board rate that do not require the completion of the CFS-304: Justification of Special Board Rate form may occur under the following situations:

(i)*(a)* Board payments to youth in the Extended Foster Care Program.

(b) Refer to 9 CAR § 40-905, extended foster care, for requirements to continue board payments for youth eighteen to twenty-one (18 – 21) years of age who participate in the Extended Foster Care Program and may qualify for an increased special board rate based upon their individualized budget.

(c) Board payments must end the day the youth elects to leave the Extended Foster Care Program or the end of the month of their twenty-first birthday;

(ii)*(a)* Providing financial support for children of a minor in foster

care.

(b) When a minor in foster care or young adult in extended foster care has a child of their own who is placed in the same resource home or other provider setting, foster care maintenance payments made on behalf of the youth shall include the board amounts listed above based on the age of the minor or young adult's child.

(c) For youth participating in the Extended Foster Care Program who live independently and have a child or children of their own, the board payment for the youth in the Extended Foster Care Program may also be augmented to assist the youth in caring for their child in their custody.

(d) The maximum amount by which the youth's board payment will be increased is the board amount listed above based on the age of the young adult's child.

(e) The amount will also take into account the youth's overall budget when determining the additional amount designed to help care for the child of the young adult; and

(iii)*(a)* Providing a comparable board rate to a placement state.

(b) Increased special board rates may also be approved for children taken into foster care in Arkansas but placed via the Interstate Compact on the Placement of Children (ICPC), Arkansas Code § 9-29-201 et seq., with kin in another state.

(c) In these situations, the Assistant Director of Field Operations or designee may approve an increased special board rate up to the amount of the placement state's standard foster care board rate for the age of the applicable child.

(D)(i) A special board rate becomes effective the day the Area Director or Assistant Director, as applicable, authorizes the rate to become active.

(ii) Retroactive payments will be determined on a case-by-case basis and must be approved by the Area Director or Assistant Director of Field Operations or designee.

(E) While the child remains in the resource home placement, the local

division staff will review the continuing need for a special board rate as directed by the Area Director and, if appropriate, resubmit for reevaluation.

(F)(i) The special board rate will also be reviewed in consultation with new resource parents each time a child changes placement, to determine if:

(a) The new resource placement is providing the same level of care; and

(b) The child continues to have the same behaviors or special needs.

(ii) If the current approved special board rate is still appropriate, the CFS-304: Justification of Special Board Rate does not have to be completed again or sent through the approval process each time the child changes placement.

(G)(i) Division staff will inform the resource parents in writing of the ultimate decision to continue or discontinue any currently approved special board rate and the reason for that decision, noting that any continued approval for special board rate is for the period designated by the Area Director and the documentation of continuing need must be reviewed accordingly.

(ii) Any increased special board rate request for a resource home that will serve as a preadoptive placement must be provided to the Area Director or designee for review sixty (60) days prior to a preadoptive placement being made.

(3) **Decreased special board rates.**

(A)(i) A special board rate can also be a decrease in the standard board amount.

(ii) Federal law prohibits any individual from receiving more than one (1) federal payment designed to provide financial assistance for the care of another individual in their care.

(iii) As a result, the division will reduce a child's monthly board payment rate dollar for dollar based on the amount of the monthly federal benefits that a child receives when the resource home provider is the payee for that child.

(iv) The resource parent will be expected to use the funds for which they are payee on behalf of the child to support the child's care.

(v) In instances when the child's federal benefits exceed the standard board amount, the division board amount entered will be zero dollars ($0).

(B) The only exception to reducing the division board amount when the child is receiving other federal benefits is when a child in foster care receives Title II Death Benefits and the resource parent is the payee.

(C)(i) A child's income must be monitored as a resource in the home and the payee for the income must report how the income is used based on the requirement for the issuing source of the income.

(ii) Resource parents are responsible for completing all reporting requirements to the payment source when becoming payee for a child's benefits.

(iii) Resource parents are also required to report any change in payee status to the division.

(iv) To assist in this process, division staff will inquire about payee status during visits to the resource home.

(g) **Medical expenses.**

(1) Medicaid is the primary payment source for medical and dental services for children in foster care, including hospitalization.

(2) If a child in foster care is eligible for Medicaid, resource parents are required to use a Medicaid provider for meeting the medical needs of the child.

(3) If Medicaid cannot cover such expenses, state funds may be a secondary payment option.

(4) Other services or supplies needed by the child must be authorized and approved by the division.

(5) A child will not be denied medical services due to being ineligible for Medicaid.

(h) **Transportation.**

(1) Transportation costs associated with the child's case plan, such as attending family team meetings and court as well as transporting the child to family time and medical appointments, may be reimbursed.

(2) Allowable transportation costs are reimbursed to the resource parent at a

rate determined by the division.

(3) To be reimbursed, the resource parent must complete a travel reimbursement request in the designated web-based system.

(4) Requests for travel reimbursement must be submitted at least monthly.

(i) **Clothing.**

(1)(A) As stated above, a portion of the monthly board allowance is designed to go toward defraying the cost of clothing for a child placed in a resource home.

(B) The portion for clothing costs may be:

(i) Spent monthly; or

(ii) Saved and used for a larger purchase later.

(C) All receipts from the purchased clothes must be retained by the resource parent and given to the Resource Worker during the Resource Worker's quarterly visit.

(2)(A) However, when a child first enters foster care, the division may issue an initial clothing order for the purchase of new clothing.

(B) Initial clothing orders will be issued on a case-by-case basis.

(C) Not all children will need to purchase new clothing as they may enter foster care with ample and suitable clothing.

(D) The FSW will assess what clothing items are needed.

(3)(A) Supplemental clothing orders may also be approved for circumstances in which a child in foster care needs new clothing items that exceed the amount included in the monthly board payment.

(B) Examples include, but are not limited to, when:

(i) A child has a significant growth spurt;

(ii) A child has an event for a school, extracurricular, or faith-based event that requires special attire; or

(iii) A child needs new items for an upcoming season.

(C) The resource parent must obtain prior approval from the FSW for supplemental clothing orders.

(D) Supplemental clothing orders will be approved no more than once a

quarter.

(4)(A) Children will be included in the selection of their own clothing as age and developmentally appropriate.

(B) All clothing purchased for a child in foster care will be:

(i) Clean;

(ii) Well-fitting;

(iii) Seasonally appropriate; and

(iv) Comparable to community standards.

(C) Any clothing purchased for a child, whether through monthly board payment funds or supplemental clothing orders, and any other personal needs items will be sent with the child upon any change in placement.

(j) **Incidental expense fund.**

(1)(A) An incidental expense fund for children ages birth to thirteen (13) years of age exists to provide items and activities intended to help normalize a child's life experience while in care.

(B) Examples include but are not limited to:

(i) Camp fees;

(ii) Extracurricular activities;

(iii) School uniforms;

(iv) Field trips; and

(v) Specialized school supplies such as graphing calculators required by the school.

(C) However, standard school supplies will be covered by personal needs moneys within the board payment.

(2)(A) The incidental expense fund is intended for items or activities that cost twenty-five dollars ($25.00) or more and must be accompanied by documentation of need for the expense.

(B) Items covered by the monthly board payment or contracts are not eligible for reimbursement from this fund.

(C) In addition, the incidental expense fund will not be used for holiday

gifts.

(3)(A) The FSW will assist the resource parent in accessing these funding requests when the money is needed for a situation that meets these policy guidelines.

(B) These funding requests must also be approved by the division Financial Support Unit.

(C) Use of the incidental expense fund will be limited to one (1) request per quarter.

(D) Resource parents must have prior approval for such purchases.

(k) **Transitional Youth Services funded through Chafee.**

(1) Youth that are fourteen (14) years of age and older in foster care are eligible for John H. Chafee Foster Care Program for Successful Transition to Adulthood funding for a variety of activities designed to promote normalcy, develop leadership skills, or help youth in foster care prepare for adulthood.

(2) The maximum amount allowed for Chafee-funded activities is dependent on the particular activity and must receive final approval from the Director of the Division of Children and Family Services or designee.

(3) Generally, the use of Chafee funding will be preapproved.

(4) However, Chafee funding may be provided on a reimbursement basis when necessary if all appropriate documentation is provided.

(l) **Additional assistance with expenses.**

(1) In addition to the items already described, the following items are allowable with the approval of the County Office Supervisor or designee:

(A) Emergency medical services and drugs that are not covered by Medicaid; and

(B) Childcare or babysitting fees may also be defrayed with financial support from the division when the resource parent is required to attend resource parent training, if and when funding is available.

(2) This does not include child care for a resource parent's employment as any regular childcare arrangements for a child in foster care will be arranged through the state's Child Care Assistance Program.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"03/2024"

9 CAR § 40-832. Financial support to foster parents.

(a)(1) The Division of Children and Family Services shall pay foster parents a monthly board rate according to the following chart.

(2) These rates are effective for board payments of November 2009 and after:

Birth through 5 years	**$410.00 Monthly**
Board and Care	350.00
Clothing	45.00
Personal Needs	15.00
6 through 11 years	**$440.00 Monthly**
Board and Care	365.00
Clothing	50.00
School and Personal Needs	25.00
12 through 14 years	**$470.00 Monthly**
Board and Care	380.00
Clothing	60.00
School and Personal Needs	30.00
15 through 17* years	**$500.00 Monthly**
Board and Care	395.00
Clothing	70.00
School and Personal Needs	35.00

*Refer to 9 CAR § 40-905 for requirements to continue board payments for youth eighteen to twenty (18-20) years of age (board payments must end the day the youth elects to leave foster care or the end of the month of his or her twenty-first birthday).

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"11/09"

9 CAR § 40-833. Requesting a special board rate.

(a) The Family Service Worker will:

(1) Check documentation of the child's special need or needs and the additional activities required of the foster parents to meet the need or needs;

(2) Complete the CFS-304: Justification of Special Board Rate by determining the level of care needed in each of the three (3) need categories and adding the three (3) levels;

(3) Submit the request for a special board rate with documentation attached to the County Supervisor for review and recommendation; and

(4) Once approved, review the continuing need for the request on a quarterly basis and, if appropriate, resubmit for reevaluation by the County Supervisor and the Area Director.

(b) The County Supervisor will:

(1) Review the request for completeness and appropriateness and recommend approval or disapproval within three (3) working days of receipt;

(2) If approved, forward the request to the Area Director for review and approval or disapproval;

(3) If disapproved, forward the request with a recommendation for disapproval to the Area Director for review and action as appropriate;

(4) Once approved, review the continuing need for the request and, if appropriate, resubmit the request on a quarterly basis for reevaluation by the Area Director; and

(5) Inform the foster parent in writing of the ultimate approval or disapproval of the request and the reason for that decision, noting that approval is only for ninety (90) days and the documentation of continuing need must be reviewed quarterly.

(c) The Area Director will:

(1) Receive requests from the County Supervisor;

(2) Review the request for completeness and appropriateness, consider the County Supervisor's recommendation and either approve or disapprove the request within three (3) working days;

(3) Have the authority to approve all special board rates up to nine hundred sixty dollars ($960);

(4)(A) Refer the request to the Foster Care Unit Manager for a second-party review if the Area Director cannot decide on approval or disapproval.

(B) Inform the requesting County Supervisor of the request's disposition and reasons for:

(i) Approval;

(ii) Disapproval; or

(iii) Referral to the foster care unit manager.

(C) A special board rate becomes effective the day the Area Director or Assistant Director, as appropriate, approves it.

(D) Retroactive payments will be determined on a case-by-case basis and must be approved by the Assistant Director of Field Operations;

(5) Once approved, ensure that the special board rate is reevaluated on a quarterly basis for continued appropriateness;

(6)(A) Maintain a file for each approved special board rate.

(B) The file should contain:

(i) The requesting memo;

(ii) Supporting documentation;

(iii) CFS-304: Justification of Special Board Rate;

(iv) Notification of approval memo; and

(v) A printout of the computer entry of the special board rate; and

(7) Maintain a log of special board rate approvals including the following column headings:

(A) Child's name;

(B) Case number;

(C) County;

(D) Effective date;

(E) Termination date;

(F) Rate; and

(G) Reason.

(d) The Division of Children and Family Services Assistant Director of Field Operations will:

(1) Have the authority to approve or disapprove all special board rates over nine hundred sixty dollars ($960);

(2) Receive completed request packets for special board rates over nine hundred sixty dollars ($960) from Area Directors;

(3) Check each request packet for completeness to include:

(A) A completed CFS-304: Justification for Special Board Rate;

(B) Clear and convincing documentation of any emotional, physical, and/or auxiliary problems the child has that may justify a special board rate;

(C) The Area Director's dated signature on the CFS-304: Justification for Special Board Rate as evidence of his or her review; and

(D) A cover memo from the Area Director to the Assistant Director that:

(i) Identifies the proposed subsidy as over nine hundred sixty dollars ($960);

(ii) Provides a justification for the proposed special subsidy; and

(iii) Makes a recommendation regarding approval or disapproval;

(4) Review the request for appropriateness and consider the Area Director's

recommendation;

(5) Refer the request to the Foster Care Unit Manager for technical assistance if desired;

(6) Reach a disposition regarding the request within three (3) working days; and

(7) Inform the requesting Area Director in writing of the request's disposition and reasons for approval or disapproval.

(e) The Foster Care Manager will:

(1) Provide only technical assistance when requested regarding special board rates; and

(2) Return the request to the Area Director or Assistant Director, as appropriate, for decision and action.

(f) **CHRIS procedures.**

(1)(A) If the special board rate is approved for the initial entry date at the provider placement service, the Family Service Worker will complete the provider recommendation screen in CHRIS.

(B) The FSW will:

(i) In the Payment Scale Information grouping, select the Child requires Special Rate checkbox;

(ii) Enter the total approved special board rate monthly amount in the Monthly Authorized Amount field;

(iii) Select the appropriate Reason for Special Rate pick list value of Special Board Rate Justification or Other;

(iv)*(a)* Enter a brief justification for the special board rate in the Explanation for Special Rate text box.

(b) This is mandatory if Other is selected as the Reason for Special Rate;

(v) Click Add button; and

(vi) Click Approval button to check the Request for Approval checkbox.

(2)(A) If the special board rate is approved after the initial entry date at the provider placement service, the Family Service Worker will complete the Payment Scale screen in CHRIS.

(B) This can also be completed if the special board rate was approved but was not entered on the Provider Recommendation screen as it should have been.

(C) The FSW will:

(i) Enter the End Date of the open Payment Scale (such as Normal or Clothing and Personal Allowance) and click Change button;

(ii) Select the Ok button to the following message:

> "382-This is the open placemen for this client. Please open a new Payment Scale or remove the End Date for the last Payment Scale";

(iii) Click Clear button to complete the following:

(a) Select the Child requires Special Rate checkbox;

(b) Select the appropriate Reason for Special Rate pick list value of Special Board Rate Justification or Other;

(c) Enter the total approved special board rate monthly amount in the Monthly Authorized Amount field;

(d)(1) Enter a brief justification for the Special Board Rate in the Explanation for Special Rate text.

(2) This is mandatory if Other is selected as the reason for special rate;

(e) Enter the start date of the approved special board rate in the Begin Date field; and

(f) Enter the Review Date if deemed necessary;

(iv) Click Add button; and

(v) Click Approval button to check the Request for Approval checkbox.

(3)(A) The special board rate approvals are three-tier:

(i) FSW requests;

(ii) Supervisor recommends; and

(iii) Area Director approves.

(B) The FSW request portion was described in the procedures above.

(C) To complete this three-tier process, the following operations should occur:

(i) Family Service Worker Supervisor will:

(a) Highlight the Payment Scale Request for Approval in their Supervisor Approvals' Box and click Show button;

(b) Review information for accuracy and click Approval button to click Recommend checkbox; and

(c)(1) If information is not accurate, click Approval button to click Deny checkbox and enter Denial Reason.

(2) If denied, the denied special board rate payment scale must be end dated and a new one entered; and

(ii) Area Director will:

(a) Highlight the Payment Scale Request for Approval in their Supervisor's Box and click Show button;

(b) Review information for accuracy and click Approval button to click Approve checkbox; and

(c)(1) If information is not accurate, click Approval button to click Deny checkbox and enter Denial Reason.

(2) If denied, the denied special board rate payment scale must be end dated and a new one entered.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2012"

9 CAR § 40-834. Child missing from an out-of-home placement.

(a)(1) Occasionally there are instances when a child or youth may leave an out-of-home placement without authorization.

(2) Any of these instances will result in immediate action from the placement provider as outlined for the various circumstances below.

(b) In all instances of missing children, the Division of Children and Family Services will collaborate with the placement provider, law enforcement, and the National Center for Missing and Exploited Children (NCMEC) in an effort to locate the child.

(c)(1) Children in foster care who are located after they run away from Interstate Compact on the Placement of Children (ICPC), Arkansas Code § 9-29-201 et seq., approved placements in another state are handled by the division ICPC office.

(2) However, if a pick-up order is issued, the Interstate Compact for Juveniles (ICJ), Arkansas Code § 9-29-401, applies.

(d)(1) Neither ICJ nor ICPC are applicable to children who are not in foster care and are kidnapped (by either a custodial or noncustodial parent) and taken to another state.

(2) These situations are a matter between the legal custodian and law enforcement.

(3) However, for children with whom the division comes into contact due to an interference with custody issue not related to a child who is in division custody, please refer to 9 CAR § 40-743, interference with custody.

(e) **Child who may have been taken from an out-of-home placement.**

(1)(A) If the placement provider has reason to believe the child was taken from the placement without authorization by another individual, then the placement provider will immediately notify the youth's primary Family Service Worker (FSW) Caseworker and primary FSW Caseworker's supervisor.

(B) The out-of-home placement provider will also begin an immediate

search for the child or youth.

(C) The search will entail the following actions:

(i) Searching the immediate premises; and

(ii) Searching the community to contact the child's friends and other contacts who may know of or have information regarding the child's whereabouts.

(2) Upon notification from the placement provider, the youth's primary FSW Caseworker and primary FSW Caseworker's supervisor will ensure the following individuals are notified of the child's disappearance:

(A) Area Director; and

(B) Assistant Director of Field Operations or designee.

(3) The primary FSW Caseworker will then follow the steps outlined in 9 CAR § 40-835.

(4) The Assistant Director of Field Operations or designee will then notify the Director of the Division of Children and Family Services.

(f) **Child who may have run away.**

(1)(A) If the placement provider has reason to believe the child left the out-of-home placement of his or her own accord (such as, if they run away), then the out-of-home placement provider will begin an immediate search for the child or youth.

(B) The search will entail the following actions:

(i) Searching the immediate premises; and

(ii) Searching the community to contact the child's friends and other contacts who may know of or have information regarding the child's whereabouts.

(2)(A) If the child is located within one (1) hour of initiating the search, the placement provider will notify the primary FSW Caseworker and primary FSW Caseworker's supervisor of the incident no later than the next calendar day.

(B) The child's primary FSW Caseworker will document the incident (such as, if the child ran away but was located within one (1) hour) accordingly in the division's information management system.

(C) The primary FSW Caseworker, or secondary FSW Caseworker, as appropriate, will also conduct a visit with the child and placement provider by the next

business day to assess why the child ran away and what immediate steps may need to be taken to better support both the child and the placement provider.

(3)(A) If the child who is believed to have run away of his or her own accord cannot be located within one (1) hour of initiating the search, then at that point the out-of-home placement provider will immediately notify the youth's primary Family Service Worker (FSW) Caseworker and primary FSW Caseworker's supervisor.

(B) The primary FSW Caseworker will then follow the steps outlined in 9 CAR § 40-835.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2024"

9 CAR § 40-835. When a child is reported missing from an out-of-home placement.

(a) After receiving notification of the child's disappearance by the placement provider, the primary Family Service Worker (FSW) Caseworker will:

(1)(A) Notify the child's custodial or noncustodial parent of the discovery of the child's disappearance within two (2) hours or sooner depending on the age of the child, by phone, or preferably, a visit to the home if possible.

(B) If the parents currently reside in a county outside the primary FSW Caseworker's county, the secondary FSW Caseworker or an appropriate FSW supervisor may conduct the home visit to notify the parents that his or her child is currently missing.

(C) If the custodial or noncustodial parent's current or correct address or telephone number is unknown, a letter will be written to the parent's last known address;

(2) Notify supervisor, the child's secondary FSW and Transitional Youth Services (TYS) Coordinator (if applicable), and attorney ad litem within two (2) hours via:

(A) Email;

(B) Phone; or

(C) Text;

(3)(A) Notify the Division of Arkansas State Police, local police department, or sheriff's office, as applicable, within two (2) hours after receiving information on missing or abducted children or youth.

(B) The notification, which may occur via email, text, or phone will include where reasonably possible:

(i) Child's name;

(ii) A description of the child's physical features such as:

(a) Height;

(b) Weight;

(c) Sex;

(d) Ethnicity;

(e) Race;

(f) Hair color; and

(g) Eye color;

(iii)*(a)* A photo of the child.

(b) Any published photos or other information published to help locate the child shall not identify the child as a child in foster care;

(iv) Child's date of birth;

(v) Circumstances of the missing child's disappearance, including the date the child went missing or was last seen, and if the child indicated a destination (and if so, what the destination is);

(vi) Any other factual, biographical, or historical information that may assist with locating the missing child;

(vii) Endangerment information such as the child's:

(a) Pregnancy status;

(b) Prescription medications;

(c) Suicidal tendencies;

(d) Vulnerability to being sex trafficked; and

(e) Other health or risk factors; and

(viii) A request for law enforcement to enter the information into the National Crime Information Center database of the Federal Bureau of Investigation;

(4) Once a police report has been filed, contact the National Center for Missing and Exploited Children (NCMEC) at 1-800-THE-LOST (1-800-843-5678) no later than twenty-four (24) hours after receiving information on missing or abducted children or youth, to provide the following information to NCMEC per the memorandum of understanding between the Division of Children and Family Services and NCMEC:

(A) Child's name;

(B) A description of the child's physical features such as:

(i) Height;

(ii) Weight;

(iii) Sex;

(iv) Ethnicity;

(v) Race;

(vi) Hair color; and

(vii) Eye color;

(C)(i) Photo of the child.

(ii) Any published photos or other information published to help locate the child shall not identify the child as a child in foster care;

(D) Child's date of birth;

(E) Name and contact information of the primary FSW Caseworker and FSW supervisor;

(F) Investigating law enforcement agency name, contact information, and case number, including a missing person report number;

(G) Circumstances of the missing child's disappearance, including the date

the child went missing or was last seen;

(H) Any other factual, biographical, or historical information that may assist with locating the missing child; and

(I) Endangerment information such as the child's:

(i) Pregnancy status;

(ii) Prescription medications;

(iii) Suicidal tendencies;

(iv) Vulnerability to being sex trafficked; and

(v) Other health or risk factors;

(5) Upon NCMEC's request, release to NCMEC any additional requested information or records that are relevant to locating the missing child;

(6) Maintain regular communication with law enforcement agencies and NCMEC in efforts to provide a safe recovery of a missing or abducted child, including by sharing information pertaining to the child's recovery and circumstances related to the recovery;

(7)(A) Contact the local Office of Chief Counsel and request the Office of Chief Counsel to complete and file a pick-up order and a motion and order to notify the court that the child is missing no more than twenty-four (24) hours after receiving notification of a missing child.

(B) The motion requesting the pick-up order and the proposed order will put the court on notice that the child is missing;

(8) Provide the order regarding the missing child to the designated Transitional Youth Services representative in the division Central Office who will assist in locating the youth;

(9)(A) Update the child's placement information in the division's information management system within two (2) business days, to include completion of fields regarding the required reports made to local law enforcement and NCMEC.

(B)(i) Even when the child is placed on runaway status, the child's Medicaid case will remain open.

(ii) If the child is still on runaway status at the time of his or her

Medicaid redetermination, such as the anniversary of his or her entering foster care, then the Medicaid case will be closed at that time;

(10) Communicate regularly with the child's secondary FSW Caseworker and the Transitional Youth Services (TYS) Coordinator, if applicable, and the designated Transitional Youth Services representative in Central Office;

(11)(A) When an Arkansas child in foster care has run away and is located in another state, notify the Administrator of the Interstate Compact for Juveniles (ICJ), Arkansas Code § 9-29-401, of the Division of Youth Services.

(B) ICJ will process all out-of-state runaways' probationers, runaways, and children in foster care; and

(12) If the child is not found:

(A) Continue to call previously contacted parties and inquire for information, furnish further information that becomes available, and if appropriate, extend the search to other counties and states; and

(B)(i) Update the custodial or noncustodial parents to assure them that the search continues no less than weekly when current contact information for the custodial or noncustodial parents is available.

(ii) This requirement does not apply to parents whose parental rights have been terminated.

(b) After receiving notification of the child's disappearance from the FSW, the Family Service Worker supervisor will:

(1) Notify the Area Director or designee of the child's disappearance; and

(2) Conference with the FSW as needed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2024"

9 CAR § 40-836. When a child missing from an out-of-home placement is located.

(a) When a child missing from an out-of-home placement is located, the primary Family Service Worker will:

(1) Ensure the child has a physical exam by his or her primary care physician, if possible, within seventy-two (72) hours of locating the child or immediately in the case of a medical emergency;

(2) Notify immediately (but no later than twenty-four (24) hours after the child has been located) all parties and individuals previously notified of the child's disappearance that the child has been located to include, but not limited to:

(A) Secondary FSW, if applicable;

(B) TYS coordinator, if applicable;

(C) FSW supervisor;

(D) Area director;

(E) Placement provider;

(F) Local Office of Chief Counsel attorney;

(G) Child's attorney ad litem;

(H) Custodial and noncustodial parents;

(I) Law enforcement; and

(J)(i) NCMEC.

(ii) This notification may occur via email, phone, or text as appropriate;

(3)(A) Conduct a visit with the child and placement provider by the next business day after the child has been located, to determine what immediate needs the child and placement provider may have and what immediate steps may need to be taken to better support both the child and the placement provider.

(B) This visit may be conducted by the secondary FSW Caseworker as appropriate;

(4) Update the child's placement in the Division of Children and Family

Services' information management system within two (2) business days of locating the child;

(5) Determine the primary factors that contributed to the child's running away or otherwise being absent from foster care to include:

(A) Updating the child's assessment in the division's information management system within thirty (30) days of locating the child; and

(B)(i) Determining if the child is a possible sex trafficking victim based on responses to the updated assessment and any other information gathered.

(ii) If there is reason to believe the child is, or is at risk of being, a victim of sex trafficking:

(a) Document accordingly in the division's information management system and conference with the FSW supervisor to determine appropriate next steps for additional screening related to sex trafficking victims and referral to appropriate services, or both;

(b) Report information on children or youth who have been identified as being a sex trafficking victim to local law enforcement immediately, and in no case later than twenty-four (24) hours after receiving the information; and

(c) Document in the division's information management system when local law enforcement is notified of a child being identified as a sex trafficking victim; and

(6) Communicate regularly with the child's secondary FSW Caseworker and/or TYS Coordinator, if applicable.

(b) When a child missing from an out-of-home placement is located, the secondary FSW Caseworker will collaborate with the primary FSW as needed to ensure:

(1) The child has a physical exam by his or her primary care physician, if possible, within seventy-two (72) hours of locating the child; and

(2) All appropriate parties are notified that the child has been located.

(c) The Family Service Worker Supervisor or Supervisors will:

(1) Conference with the FSW or FSWs as needed; and

(2) Notify the Area Director or designee.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2024"

Subpart 9. Services to Provide Other Permanent Living Situations

9 CAR § 40-901. Transitional Youth Services.

(a)(1) The purpose of Transitional Youth Services (TYS) is to better prepare youth in Division of Children and Family Services custody, who are in an out-of-home placement or whose adoption or guardianship is finalized at sixteen (16) years of age or after, for successful transition to adulthood and to ensure that youth have access to an array of resources.

(2) The Division of Children and Family Services shall ensure that each youth in foster care who reaches fourteen (14) years of age, or who enters foster care at or after fourteen (14) years of age, shall be provided the opportunity to take an active role in planning for his or her future.

(3) Youth entering foster care between the ages of fourteen (14) and eighteen (18) will be immediately referred to the Transitional Services Coordinator (TSC).

(b) The Division of Children and Family Services shall:

(1) Provide the youth with the opportunity to be actively engaged in all case/client plans impacting his or her future, including, but not limited to a transitional plan and a life plan;

(2) Empower the youth with information regarding all available services and options and provide the youth with the opportunity to participate in services tailored to his or her individual needs and designed to enhance his or her ability to acquire the skills necessary to successfully enter adulthood;

(3) Assist the youth in developing and maintaining healthy relationships and life connections with nurturing adults who can be a resource and positive guiding influence in his or her life after leaving foster care;

(4) Provide the youth with basic information and documentation regarding his or her biological family and personal history;

(5)(A) Provide the youth with information that relates to the healthcare needs of youth aging out of foster care, including options for health insurance after exiting care and the importance of designating another individual to make healthcare treatment decisions on behalf of the youth, if he or she becomes unable to participate in such decisions and does not have, or does not want, a relative who would otherwise be authorized to make such decisions;

(B) Provide the youth with the option to execute a healthcare power of attorney, healthcare proxy, or other similar document recognized under state law; and

(6) Inform the youth of his or her right to stay in care until age twenty-one (21).

(c)(1) Each youth shall be given the opportunity to create a transitional plan which encompasses all the life skills, resources, and future-planning for the youth's successful transition into adult life.

(2) The transition plan will be created with the support of the youth's transitional team which will consist of adults whom the youth identifies as significant.

(3) The youth's primary Family Service Worker shall be responsible for the coordination of the youth's transitional team and is responsible for the transitional plan and case plan as reflected in the court report.

(4) The Transitional Services Coordinator is an appropriate support for some of the youth's transitional plans and may serve on the transitional team if appropriate.

(5) Because APPLA is the least permanent goal for a youth, the case plan and transitional plan shall address life connections.

(d)(1) The transitional plan shall allow for client protection.

(2) If a youth is identified as legally impaired and likely to become endangered, the transitional plan shall include automatic referrals to the Division of

Developmental Disabilities Services and/or Adult Protective Services as appropriate.

(3) For youth with significant mental health issues, the transitional plan shall consider appropriate referrals and applications for postcare services (e.g., adult Social Security Insurance).

(4) The youth and his or her attorney shall have the right to attend all staffings and to fully participate in the development of the transitional plan, to the extent that the youth is able to participate medically and developmentally.

(e) **Chafee services.**

(1)(A) Each youth in Department of Human Services custody, fourteen (14) years of age or older, is eligible for Chafee services.

(B) All Chafee services are voluntary.

(C) Services provided are primarily education-oriented and training-oriented and are intended to keep youth in school while they obtain life skills and participate in other life preparation activities and plans to promote a successful transition to adulthood.

(2) Chafee provides support for three (3) groups of the foster care population:

(A) Youth in foster care, beginning at fourteen (14) years of age and continuing until the youth completes high school or other secondary educational program, may receive services such as life skills assessment, basic life skills training, and other services such as tutoring that can be approved on a case-by-case basis;

(B) Youth may choose to remain in care until the age of twenty-one (21) and are eligible for Chafee services if they meet any of the following conditions:

(i) Youth is completing secondary education or a program leading to an equivalent credential;

(ii) Youth is enrolled in an institution which provides post-secondary or vocational education;

(iii) Youth is participating in a program or activity designed to promote, or remove barriers to, employment;

(iv) Youth is employed for at least eighty (80) hours per month; and

(v) Youth is incapable of doing any of the above described activities

due to a medical condition, which incapability is supported by regularly updated information in the case plan; and

(C) If a youth was in foster care on his or her eighteenth birthday, and the foster care case is closed, he or she will be eligible for after care services and support until twenty-one (21) years of age.

(3)(A) Chafee also provides support for youth whose adoption or guardianship is finalized at sixteen (16) years of age or older.

(B) Such youth are eligible for ETV (education training voucher) and may attend youth development activities and life skills classes.

(4)(A) Assessments begin at fourteen (14) years of age and transitional services may begin at fourteen (14) years of age for youth already in foster care.

(B) In cases where a youth younger than fourteen (14) years of age needs life skills training, the Director of the Division of Children and Family Services or designee may grant a waiver for services.

(5)(A) The Division of Children and Family Services shall provide, either directly or through contract, those services identified in the life skills assessment that are indicated to help the youth achieve independence.

(B) The case plan and/or transition plan must identify and address the specific skill needs of each youth.

(C)(i) Each youth fourteen (14) to seventeen (17) years of age receiving transitional services shall be assessed annually using an appropriate life skills assessment tool.

(ii) However, an individualized assessment shall be conducted every six (6) months to determine the youth's progress in acquiring basic life skills and the skills necessary for a successful transition to adulthood.

(D) Basic life skills will be assessed at each staffing held for a youth fourteen (14) years of age and older.

(E) When the youth turns eighteen (18) years of age, assessments will be highly individualized.

(6) If a youth was in foster care on or after his or her sixteenth birthday and

was adopted before his or her eighteenth birthday, he or she will be eligible for services until his or her twenty-first birthday.

(7) While incarcerated youth (prison, jail, Division of Youth Services custody) are ineligible for Chafee funding, the youth shall still be given the opportunity to plan for his or her future.

(8) Opportunities shall be available for each foster parent caring for, or interested in caring for, a youth fourteen (14) years of age or older, and each Family Service Worker responsible for any youth, age fourteen (14) years of age or older, in helping youth acquire basic life skills.

(9) Within thirty (30) days after the youth leaves foster care, the Division of Children and Family Services shall provide the youth the following:

(A) A full accounting of all funds held by the department to which he or she is entitled;

(B) Information on how to access the funds; and

(C) When the funds will be available.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2011"

9 CAR § 40-902. Referral for transitional services.

(a) The Family Service Worker will:

(1)(A) Complete the CFS-001: Referral for Transitional Services & Support on all youth entering foster care between fourteen (14) and eighteen (18) years of age.

(B) The CFS-001: Referral for Transitional Services & Support will be completed also on youth who turn fourteen (14) years of age while in foster care.

(C) All youth must be assessed for life skills within thirty (30) days of

entering care or within thirty (30) days after their fourteenth birthday;

(2)(A) Forward the completed and signed CFS-001: Referral for Transitional Services & Support to the TSC.

(B) The youth must sign the CFS-001: Referral for Transitional Services & Support to be eligible for Chafee-specific services and support;

(3) If the youth chooses to participate, notify the TSC Supervisor and he or she will assign the TSC, as appropriate;

(4) Assist the youth in completing a life skills assessment within thirty (30) days of entering care or within thirty (30) days after their fourteenth birthday;

(5) After case plan is completed, initiate a transitional team meeting and document on the contact screen and in the transitional plan as appropriate;

(6) Ensure that each youth fourteen (14) to seventeen (17) years of age is individually assessed every six (6) months to:

(A) Review their life plan;

(B) Determine what life skills they have attained; and

(C) Determine what life skills they still need;

(7) Ensure that each youth fourteen (14) to seventeen (17) years of age is assessed annually using the appropriate life skills assessment tool;

(8) Share the reassessment results with the TSC and document the reasons for noncompletion;

(9) Coordinate logistics for life skills training or other youth development activities with the foster parent or caretaker;

(10) Prepare the youth for transitional team meetings; and

(11) Enter date into CHRIS in a timely manner.

(b) If the youth makes a planned move (e.g., college) to another county, the supervisor in the primary county should communicate with the supervisor in the placement county before the youth moves.

(c)(1) If the youth makes an unplanned move to another county, the supervisor in the primary county should notify within ten (10) days, by email, the supervisor in the placement county.

(2) The receiving supervisor should then make secondary caseload assignments to the FSW and the TSC and directly notify them of the assignment.

(3) All workload assignments will go through the Coordinator's immediate supervisor and not the individual county supervisors.

(d) If a youth is transferred to another area/county not designated as primary, the FSW in the residence area/county should:

(1) Assist in obtaining an assessment/reassessment if the date occurs while the client is in the other county;

(2) Transfer case files and all records of life-skills training sessions attended, skills acquired or mastered, and copies of assessment results to the FSW and the TSC in the secondary county to ensure that training needs and goals will continue to be addressed; and

(3) Assist youth in completing the NYTD survey, if applicable.

(e) The Transitional Services Coordinator will:

(1)(A) Update the contact screen in CHRIS each time contact is made with a youth.

(B) Contacts include group training sessions, face-to-face contact, phone contact, the youth's attendance in life-skills training, transitional team meetings, or ETV consultation.

(C) Indicate the title or content and information concerning the youth's participation;

(2) Complete education and employment screens when appropriate;

(3) Develop life skills training resources;

(4) Complete the CFS-035: Coordinator Monthly Summary;

(5) Submit the CFS-035 to the TSC Supervisor and the TYS Program Manager by the sixth day of the month;

(6) Coordinate and support transitional activities with the FSW when appropriate;

(7) Document the completion of the initial life skills assessment and any reassessments on the IL checklist screen and that the results were routed to the youth,

FSW, and foster parents/provider in the document tracking screen; and

(8) Document all transitional activities and services on the client contact information screen.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "NYTD" means National Youth in Transition Database.

"TSC" means transitional services coordinator.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2011"

9 CAR § 40-903. Youth transitional plan and life plan.

(a) The Family Service Worker will:

(1) Develop a transitional plan with all youth in foster care between fourteen (14) and twenty-one (21) years of age, and for all youth who turn fourteen (14) years of age while in foster care, within ninety (90) days of entering care or within ninety (90) days after their fourteenth birthday;

(2) Assist the youth in developing a transitional team to include individuals identified by the youth as significant (e.g., foster parents, bio family, AAL, CASA, mentors, therapists, TSC, teachers, coaches);

(3) Review the transitional plan every six (6) months to ensure consistency with education plan, case plan, and life plan and coordinate with the youth's school at least annually, until the youth exits foster care or secondary school;

(4) Determine, based on the youth's age, maturity, disabilities, and other factors, what shall be appropriate to include in the transition plan;

(5) Determine at which point in the youth's development to include the

following components (all components must be present by the time the youth is seventeen (17) years of age):

(A) Education component;

(B) Employment component;

(C) Health component to include information on:

(i) Options for health insurance; and

(ii) Documentation of a healthcare power of attorney or healthcare proxy if the youth chooses to designate one;

(D) Housing component;

(E) Lifelong connections component;

(F) Written confirmation that the youth has been informed of his or her right to stay in foster care after reaching eighteen (18) years of age for education, treatment, work, or other specific programs and services, including but not be limited to the John H. Chafee Foster Care Independence Program and other transitional services;

(G) The youth's court case record, including information on:

(i) His or her biological family;

(ii) Foster care placement history;

(iii) Tribal information, if applicable; and

(iv) Whereabouts of siblings, if any, unless a court determines that release of information pertaining to siblings would jeopardize the safety or welfare of the sibling;

(H) List of significant individuals in the youth’s life; and

(I) Assistance in obtaining a free credit report and if the youth has a bad credit report because of identity theft, assistance in correcting the credit report;

(6) Assist the youth or arrange for assistance in:

(A) Procuring life skills training;

(B) Completing applications for:

(i) ARKids First, Medicaid, or assistance in obtaining other health insurance;

(ii) Referrals to transitional housing, if available, or assistance in

securing other housing; and

(iii) Assistance in obtaining employment or other financial support;

(C) Applying for admission to a college or university, or to a vocational training program, or another educational institution and in obtaining financial aid, when appropriate; and

(D) Developing and maintaining relationships with individuals who are important to the youth and who may serve as a resource to the youth based on his or her best interests;

(7) Discuss with the youth the importance of designating someone to make healthcare decisions on their behalf when they exit from foster care, if they become unable, or if they do not have or do not want, an otherwise authorized relative to do so;

(8)(A) Assist the youth in contacting the individual or individuals who they would like to serve as their healthcare power of attorney or healthcare proxy and completing documentation authorizing a healthcare power of attorney or healthcare proxy;

(B) The Department of Human Services serves as the youth's healthcare power of attorney or healthcare proxy until the youth exits foster care;

(9) With court permission and if the youth desires, facilitate visits between the youth and his or her relatives;

(10)(A) Assist all youth in or entering foster care at fourteen (14) years of age or older or in the ninth grade, whichever comes first, within ninety (90) days after their fourteenth birthday or ninety days (90) days after entering the ninth grade, in developing a life plan (CFS-002: Life Plan and Agreement for Youth in Transition).

(B) The life plan shall be youth-driven.

(C) The life plan shall contain a concrete to-do list for youth, staff, and stakeholders.

(D) The life plan should be adopted by the transitional team within six (6) months of the youth's sixteenth birthday or entry into foster care, whichever comes first;

(11) Hold a final transitional team meeting within ninety (90) days of youth's

planned exit from foster care;

(12) Invite the youth's TSC to the transitional team meeting to discuss Chafee after care support and ETV;

(13) At the final transitional team meeting, complete CFS-003: Checklist for Youth Exiting Care and provide the youth with the following and obtain his or her signature and that of his or her attorney ad litem confirming receipt:

(A) Social Security card;

(B) Certified birth certificate or verification of birth record, if available or should have been available;

(C) Family photos in the possession of the Division of Children and Family Services;

(D)(i) All the youth's health records for the time the youth was in foster care and any other medical records that were available or should have been available to the division.

(ii) A youth who chooses to remain in foster care after reaching eighteen (18) years of age may request that his or her health records remain private;

(E) All of the youth's educational records for the time the youth was in foster care and any other educational records that were available or should have been available to the division;

(F) Driver's license and other picture identification;

(G) Transitional resource book and life book, if applicable;

(H) Life plan;

(I) If the youth elected not to designate a healthcare power of attorney or healthcare proxy before aging out of care, whether at eighteen (18) or twenty-one (21) years of age, contact information for legal services if at a later point the youth decides to designate someone to make healthcare decisions on his or her behalf, if he or she:

(i) Becomes unable to participate in such decisions; and

(ii) Does not have, or does not want, a relative who would otherwise be authorized to make such decisions;

(J) All information contained within the youth's case plan (current or

former, as requested); and

(K) A list of all the youth's former placements;

(14)(A) Document a current address and contact information for youth who reside outside the foster home in order to study, work, or for any other reason.

(B) This information must be kept current; and

(15) Within seventy-two (72) hours of case closure, notify the eligibility unit of the case closing and provide the Trust Coordinator with any information requested.

(b) The Transitional Youth Services Unit Manager or designee will:

(1)(A) Review CHRIS report regarding TYS credit check alerts monthly to determine when to run an annual credit check on youth who are sixteen (16) years of age and older.

(B) Submit information on each appropriate youth to each of the three (3) credit reporting agencies (CRAs) – TransUnion, Equifax, and Experian – in succession, i.e., do not contact all three (3) CRAs at the same time, in order to request a credit check.

(C)(i) This process will begin within thirty (30) days of the youth's sixteenth birthday or within thirty (30) days of the youth coming into care, whichever comes first, until the youth exits care.

(ii)*(a)* One (1) CRA must be contacted, the credit check information received from that CRA, and any inaccuracies corrected before the next CRA is contacted.

(b) Ensure that one (1) full year has passed since accessing the previous year's report before viewing the current year's report.

(iii) Obtain a copy of the credit report, if one exists (the majority of youth under eighteen (18) years of age should not have a credit report), from each of the three (3) nationwide credit reporting agencies (CRAs) – TransUnion, Equifax, and Experian – for each youth (information must be obtained from each CRA in succession (i.e., all three (3) CRAs are not to be contacted at the same time regarding a particular youth));

(2)(A) If problems or inaccuracies are detected on a youth's credit report,

contact the CRA that issued the report to resolve any inaccuracies found in the report.

(B) Explain that the child is a minor and cannot legally enter into any type of contract.

(C) To prove that the child is a minor, send the CRA:

(i) A copy of the child's birth certificate or other documentation of age, such as a court order;

(ii) A letter asking them to remove all accounts, application inquiries, and collection notices from the credit report associated with the child's name or personal information; and

(iii) Documentation verifying that the youth is in foster care and the agency is authorized to act on the youth's behalf.

(D) Discuss with the CRA the appropriate course of action and initiate applicable next step for the action or actions;

(3) Share relevant information with the youth and the youth's FSW and TSC; and

(4) Document credit report review in contacts screen in CHRIS.

(c) The Eligibility Unit Trust Coordinator will, within thirty (30) days after the youth leaves foster care, provide the youth with the following information:

(1) A full accounting of all funds held by the department to which he or she is entitled;

(2) How to access the funds; and

(3) When the funds will be available.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "TSC" means transitional services coordinator.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2012"

9 CAR § 40-904. Interagency support for youth with disabilities.

(a) In order to promote continuity of care for youth with disabilities, the Adult Protective Services Unit of the Department of Human Services, the Division of Children and Family Services, the Division of Youth Services, the Division of Developmental Disability Services, and the Division of Behavioral Health Services have signed a memorandum of understanding that describes each division's roles and responsibilities.

(b) The Family Service Worker will:

(1) Arrange an interagency case staffing and initiation of transition plan following youth's fourteenth birthday;

(2) Arrange an interagency case staffing within thirty (30) days to include PACE determination and DD diagnosis identified for individuals taken into custody after age fourteen (14);

(3) Arrange an interagency review every six (6) months for youth likely to require state custody status as an adult; and

(4) Invite the youth's TSC and any other appropriate individuals to the interagency case staffing and all subsequent interagency reviews.

(c) APS will:

(1) Review plan and identify issues requiring clarification or issues that might have been omitted and request this information from the Division of Children and Family Services; and

(2) Participate in case staffing and transition plan review following client's seventeenth birthday.

(d) The Adult Protective Services Unit of the Department of Human Services, the Division of Children and Family Services, Division of Youth Services, and the Office of Chief Counsel will inform the court of the transition plan.

(e) The Adult Protective Services Unit of the Department of Human Services and the Division of Children and Family Services will review the transition plan and arrange appropriate placement prior to client's eighteenth birthday.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"06/2011"

9 CAR § 40-905. Extended foster care.

(a)(1) Even after reaching the legal age of majority (that being eighteen (18) years of age), all youth need additional support and access to an array of resources as they continue their transition into adulthood.

(2) As such, youth who are eighteen (18) through twenty-one (21) years of age, or such other age as may be required under federal law, may choose to participate in the Extended Foster Care Program for education, work, or other programs and services in order to help them achieve a successful transition into adulthood.

(b) Extended foster care provides case management services and support, as well as financial assistance with room and board costs for a youth who:

(1) Was adjudicated dependent or dependent-neglected;

(2) Was in foster care at eighteen (18) years of age but is not yet twenty-one (21) years of age, or such other age as may be required under federal law;

(3) Wishes to participate in extended foster care to benefit from the program; and

(4) Is one (1) or more of the following:

(A) Completing secondary education or a program leading to an equivalent credential;

(B) Enrolled in an institution that provides post-secondary or vocational education;

(C) Participating in a program or activity designed to promote, or remove barriers to, employment;

(D) Employed for at least eighty (80) hours per month;

(E) Has a viable plan to meet the requirements of subdivision (b)(4)(A) – (D); or

(F) Incapable of completing school or work activities above due to a documented medical condition, which incapability is supported by regularly updated information in the youth's case plan.

(c) Participation in extended foster care does not impede or otherwise alter any right afforded to the youth by virtue of their age of majority, including without limitation the right to consent to medical treatment or enter into contracts.

(d) A six-month review hearing is not required for a juvenile who is over eighteen (18) years of age and has elected to remain in extended foster care or to return to extended foster care.

(e) A copy of the youth's entire record will be made available to them at no cost at the final transitional team meeting, which will occur within ninety (90) days of youth's planned exit from care.

(f) **Transitional Youth Services sponsor.**

(1)(A) Youth who elect to participate in the Extended Foster Care Program will select a Transitional Youth Services (TYS) Sponsor.

(B) The sponsor will be a supportive adult with whom the youth already has a connection, such as the youth's previous out-of-home provider.

(C) For youth who are unable to identify such an individual, staff may recommend someone who is already serving as a sponsor to other youth in extended foster care or a volunteer from the community.

(D) The role of the sponsor is to provide support and guidance to the youth as they transition to adulthood.

(E) The sponsor will also receive the board payment on the youth's behalf.

(F) The sponsor will then assist the youth in managing the board payment according to their established budget developed by the youth and their transitional team.

(G) Exceptions for sponsors may be approved by the Director of the

Division of Child and Family Services (the division) or designee.

(H) See 9 CAR § 40-907, for more information regarding TYS sponsors.

(2)(A) Board payments for IV-E eligible youth may be made through Title IV-E funds as appropriate.

(B) Board payments for youth who are not IV-E eligible will be paid using state general revenue funds or other federal funds as allowed under federal law and regulations.

(g) **Participation in extended foster care.**

(1)(A) Youth who left foster care at eighteen (18) years of age or older may later participate in the Extended Foster Care Program if the youth submits a request in writing or in person to the Department of Human Services to participate in extended foster care.

(B) Division of Children and Family Services staff will inform the youth of the option to have a petition filed on their behalf by their previous attorney ad litem if the youth also wishes for the court to have jurisdiction over their extended foster care case.

(2)(A) After receiving a request to return to the Extended Foster Care Program, the youth's case will be reopened in the division's information management system by the next business day.

(B) A TYS sponsor will be secured and keyed with a corresponding board rate within seven (7) business days after the request to return to the Extended Foster Care Program is received.

(C) Additional urgency in keying the sponsor and board rate will be exercised as needed to ensure this information is keyed prior to the monthly board payment run that occurs after the youth's return date.

(3) The department may discharge a juvenile from extended foster care program if the juvenile:

(A) Is over eighteen (18) years of age;

(B) Reenters extended foster care after having his or her request to reenter foster care approved; and

(C) Fails to engage in or have a viable plan to meet the extended foster care requirements listed above or have a viable plan to meet those requirements for more than sixty (60) days.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

9 CAR § 40-906. Extended foster care.

The Family Service Worker, with support from the Transitional Youth Services Coordinator, will:

(1) Explain and complete CFS-009: Extended Foster Care Agreement with the youth when the youth decides to participate in extended foster care and preferably before turning eighteen (18) years of age;

(2) Consider the following issues with the youth:

(A) The school the youth will attend, if applicable;

(B) Searching for and securing a job, if applicable;

(C) Living arrangements, including without limitation helping the youth locate a residence and assisting with any apartment applications;

(D) Choosing a sponsor;

(E) Budgeted income/expenses;

(F) Amount of board payment;

(G) Start-up items;

(H) Transportation needs;

(I) Continued life-skills training;

(J) Support needed to help youth remain in school, if applicable; and

(K) Designating a healthcare power of attorney or healthcare proxy;

(3) Assist the youth and their transitional team in determining appropriate housing and needed support;

(4) Complete CFS-370: Residence Checklist for Youth for any youth living in their own apartment or other independent setting;

(5) Develop a budget via CFS-025 with the youth and their transitional team;

(6) Visit the youth face-to-face at least once a month;

(7) Obtain approval for less than twice-monthly visits from the county supervisor, if appropriate;

(8)(A) Maintain monthly contacts with the youth's sponsor.

(B) Contacts may be by telephone;

(9) Obtain the youth's consumer credit report annually until the youth exits foster care, and:

(A)(i) Access the report via www.annualcreditreport.com within thirty (30) days of the youth's birthday or within thirty (30) days of the youth entering care, whichever comes first.

(ii) However, only access it on an annual basis, that being, ensure that one (1) full year has passed since accessing the previous year's report before viewing the current year's report;

(B) Review report with the youth and help youth in interpreting the report within ten (10) working days of accessing the report;

(C) Assist youth in resolving any inaccuracies found in the report;

(D) Document the credit report review in the Division of Children and Family Services' information management system, selecting "Annual Credit Check – Engage Youth"; and

(E) Share relevant information with the youth's Transitional Services Coordinator; and

(10) Update or otherwise complete CFS-003: Checklist for Youth Approaching Adulthood as the youth approaches twenty-one (21) years of age or other planned exit from the Extended Foster Care Program.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

9 CAR § 40-907. TYS sponsors.

(a) The Family Service Worker, with support from the TYS Coordinator, will:

(1)(A) Assist the youth in locating and choosing a sponsor who is not the person from whom the youth was removed.

(B) Before finalizing a sponsor for a youth, a Division of Arkansas State Police Criminal Record check and Child Maltreatment Central Registry check will be conducted on the proposed sponsor.

(C) In emergency situations in which a family member (other than the person from whom the youth was removed) wishes to serve as the sponsor, a Lexis Nexis check may be run in lieu of the Division of Arkansas State Police criminal record check and Child Maltreatment Central Registry check; and

(2) Request that the local resource team establish an ILP sponsor service for the approved sponsor in the Division of Children and Family Services' information management system and key the youth into the placement service with the board amount listed in the youth's approved budget.

(b) The youth's TYS Sponsor will:

(1) Serve as a member of the youth's transitional team to include participating in the youth's transitional team meetings;

(2) Provide support and guidance to the youth as they transition to adulthood, for example, assisting with decision making, including without limitation decisions regarding:

(A) Education;

(B) Employment; and

(C) Housing;

(3) Assist the youth with budgeting the youth's board payment;

(4) Help to ensure the youth meets at least one (1) of the Extended Foster Care Program requirements or has a viable plan in place to meet one (1) of the Extended Foster Care Program requirements; and

(5) Maintain regular contact with the youth.

(c) In addition, youth eighteen (18) years of age and older who are participating in the Extended Foster Care Program may live with their TYS Sponsors (even if the TYS sponsor is not an approved resource home) as appropriate, provided that:

(1) A Division of Arkansas State Police Criminal Background and Child Maltreatment Registry checks are clear and up to date (that being within the past two (2) years);

(2) A visual inspection of the sponsor's home is conducted, and the home is deemed safe and appropriate for a young adult;

(3) The Area Director or designee and the youth's attorney ad litem approves the living arrangement with the sponsor; and

(4) A transitional team meeting is held to ensure the sponsor understands their role and that individualized guidelines and expectations are established for any youth who will reside with their sponsor, including without limitation curfews and responsibility for assisting with costs of living, if applicable, via the youth's board payment.

(d)(1) An approved resource parent may serve as both a resource parent for children placed in their home and a TYS Sponsor for a youth in extended foster care but who is not residing in the resource home.

(2) However, an ILP Sponsor service will have to be opened for that individual.

(3) Any resource parent who wishes to serve as a sponsor for a youth and who is set up under a master provider (such as Therapeutic Foster Care or Private Licensed Placement Agencies), must be set up with a new ILP Sponsor service with a new provider number.

(e) If a youth in foster care was placed in a resource home prior to turning

eighteen (18) years of age and continues to stay in that resource home after turning eighteen (18) years of age (and while participating in the Extended Foster Care Program), the youth will remain keyed into the resource home as a regular placement rather than keying the resource parent as the sponsor for the youth.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

9 CAR § 40-908. After care services and support.

(a)(1) After care funds may provide assistance and services to youth who have left foster care because they have attained eighteen (18) years of age and who have not attained twenty-one (21) years of age.

(2) The youth must have been in foster care on his or her eighteenth birthday and not currently participating in the Extended Foster Care Program to be eligible for after care services and support.

(3) However, associated financial paperwork processes for after care services may begin prior to a youth's exit from care in order to ensure a more seamless transition.

(4) After care is funded by the John F. Chafee Foster Care Program for Successful Transition to Adulthood grant award.

(b)(1) Additionally, a youth is encouraged to have a budget and a viable plan that includes participation in:

(A) Education;

(B) Employment; or

(C) Training.

(2) If the youth is incapable of school or work requirements due to a

documented medical condition, they are also eligible for after care.

(3) After care support:

(A) Is generally limited to five hundred dollars ($500) in any one (1) month; and

(B) May be requested for a total of two thousand dollars ($2,000).

(4) However, more than five hundred dollars ($500) per month may be provided to a youth on an as needed basis.

(5) After care support may include expenditures for housing, insurance, housing set-up, transportation, utility bills, utility deposits, etc.

(6) After care support does not include amounts available through the education and training voucher (ETV) program.

(c)(1) After care support is paid to the provider of the good or service rather than the youth.

(2) However, reimbursement may be made to the youth if the documentation of the expense as well as the paperwork needed by the Division of Children and Family Services for reimbursement is provided.

(d) For youth who initially elect to participate in the Extended Foster Care Program, but then choose to leave that program prior to twenty-one (21) years of age, after care funding will still be available on a prorated amount based on the number of months remaining until the youth's twenty-first birthday.

(e) Youth eligible for after care may also participate in life skills classes and staff may help with transportation needs of these youth as staff capacity allows.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

9 CAR § 40-909. After care and follow-up.

(a) If the youth is still in foster care, the Family Service Worker will:

(1)(A) Work with the youth requesting after care support.

(B) Request will be made via CFS-004: Request for After Care Support;

(2) Send CFS-004: Request for After Care Support to the youth's TSC; and

(3) Assign the TSC as the primary worker.

(b) If the youth has already left foster care, the Transitional Service Coordinator will:

(1)(A) Work with the youth requesting after care support.

(B) Request will be made via CFS-004: Request for After Care Support; and

(2) Request his or her Supervisor to reopen the youth's closed child protective service case and assign the TSC as the primary worker.

(c) Once the Transitional Services Coordinator is assigned as primary worker, he or she will:

(1) Select Transitional Youth Services Program as the case type on the case summary screen;

(2) Complete the contact screen for all contacts with youth and update as appropriate;

(3) Complete education and employment screens and update as appropriate;

(4) Update client contact information as appropriate;

(5) Document in the client contact information screen, the type and extent of financial assistance to be provided;

(6) Assist the youth in selecting a residence that is appropriate for his or her immediate needs, if needed;

(7) Complete a CFS-370: Residence Checklist for Youth to ensure the residence and location are acceptable and document in the document tracking screen in CHRIS;

(8) Provide the youth with available alternatives for meeting their immediate housing needs, if appropriate;

(9) Recommend and assist in arranging for personal or community support as requested;

(10) Assist the youth in applying for assistance if he or she wishes to start or continue a post-secondary educational program;

(11)(A) Document purchase requests in the Document Tracking screen, and if approved, document client contact information screen.

(B) Payment is not made directly to the youth, except for approved travel reimbursement;

(12) Forward after care support requests to Financial Support Unit at least two (2) weeks before payment is due; and

(13) Maintain monthly contact with the youth.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2011"

9 CAR § 40-910. Termination of parental rights.

(a)(1) All children have a right to a safe, permanent family.

(2) The Division of Children and Family Services shall develop and implement permanency plans for children.

(3) One option is to terminate parental rights to a child for adoptive placement, when it has been determined that reunification with the family is not a viable option.

(4) The court may consider a petition to terminate parental rights (TPR) if the court finds that there is an appropriate permanency placement plan for the child.

(5) A court may terminate the rights of one (1) parent and not the other parent if the court finds that it is in the best interest of the child.

(b) It is not required that a permanency planning hearing be held as a prerequisite to the filing of a petition to terminate parental rights, or as a prerequisite to the court considering a petition to terminate parental rights.

(c) The division will file a petition to terminate parental rights under the following circumstances:

(1)(A) A child (of any age) has been in an out-of-home placement for fifteen (15) of the most recent twenty-two (22) months.

(B) The petition must be filed by the end of the child's fifteenth month in foster care.

(C) In calculating when to file a petition for TPR, the division:

(i) Will calculate the fifteen (15) out of the most recent twenty-two-month period from the date the child entered foster care;

(ii) Will use a cumulative method of calculation when a child experiences multiple exits from and entries into foster care during the twenty-two-month period; and

(iii) Will not include trial home visits or runaway episodes in calculating fifteen (15) months in foster care; or

(2) The parent is found by a court of competent jurisdiction to:

(A) Have committed murder of any child;

(B) Have committed manslaughter of any child;

(C) Have aided or abetted, attempted, conspired, or solicited to commit such a murder or such an act of manslaughter;

(D) Have committed a felony battery that results in serious bodily injury to any child or have aided or abetted, attempted, conspired, or solicited to commit felony battery that results in serious bodily injury to any child;

(E) Have subjected any child to aggravated circumstances (see 9 CAR § 40-102, definitions);

(F) Have had his or her parental rights involuntarily terminated as to a sibling of the child; or

(G) Have abandoned an infant, as defined at Arkansas Code § 9-27-

303(2) (the petition to TPR will be made within thirty (30) days of the judicial determination that the child is an abandoned infant).

(d) The petition to terminate parental rights will be made within thirty (30) days of a judicial determination that reasonable efforts to reunify the child and parent are not required.

(e) The division may elect not to file or join a petition to terminate parental rights if:

(1) The child is being cared for by a relative, the relative has made a long-term commitment to the child, and the relative is willing to pursue guardianship or permanent custody of the juvenile;

(2) The child is being cared for by his or her parent who is in foster care, and TPR is not in the best interest of the child;

(3) The division has documented in the case plan a compelling reason why filing such a petition is not in the best interest of the child and the court approves the compelling reason as documented in the case plan; or

(4) The division has not provided to the family of the child, consistent with the time period in the case plan, such services as the division deemed necessary for the safe return of the child to the child's home if reunification services were required to be made to the family.

(f) If a juvenile is the subject of an open case filed under the Arkansas Juvenile Code, Arkansas Code § 9-27-301 et seq., the Office of Chief Counsel will file all subsequent petitions (i.e., TPR, adoption, guardianship) in that same circuit court and case.

(g) If the court adopts the goal of termination of parental rights, the division shall file a petition to terminate parental rights within thirty (30) days from the date of the entry of the order establishing such goal.

(h) If the court finds that the child should remain in an out-of-home placement, either long-term or otherwise, the child's case shall be reviewed every six (6) months, with an annual permanency planning hearing.

(i) Additionally, if the child has been in an out-of-home placement fifteen (15) of

the last twenty-two (22) months, and a termination petition has been filed by another party, the division will seek to join the petition.

(j) Concurrent with the filing of a termination petition, the division will identify, recruit, process, and approve a qualified family for adoption.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-911. Division of Children and Family Services initiates termination of parental rights.

(a) The Family Service Worker will:

(1) Consult the Office of Chief Counsel attorney to determine if legal grounds exist for disposition recommendation of termination of parental rights;

(2)(A) Schedule and conduct a permanency planning staffing prior to the permanency planning hearing to determine if continuing contact with the custodial/noncustodial parent or parents or putative parent could cause harm to the child and to determine the likelihood that the child will be adopted if the termination petition is granted.

(B) Those invited to participate in the staffing are the:

(i) Custodial/noncustodial parent or parents;

(ii) Attorney for the parent or parents;

(iii) Age-appropriate child;

(iv) Office of Chief Counsel attorney;;

(v) County supervisor;

(vi) Adoption specialist;

(vii) Attorney ad litem; and

(viii) Foster parents;

(3) Obtain written consent of the Area Director, if applicable;

(4) Prepare a CFS-6024: Permanency Planning Court Report and submit it to the Office of Chief Counsel attorney at least fourteen (14) days before the permanency planning hearing;

(5) Work with the Office of Chief Counsel attorney to file a petition to terminate parental rights;

(6) Work with the Office of Chief Counsel attorney to prepare for termination of parental rights hearing within thirty (30) days from the date of the entry of the court order;

(7) Provide the Office of Chief Counsel attorney with information on the CFS-408: Federal Parent Locator System Information regarding the custodial/noncustodial parent or parents or putative parent so that notice of the termination petition can be provided;

(8) Provide the Office of Chief Counsel attorney with the name and address of any grandparent who is entitled to notice based on the conditions listed in 9 CAR § 40-406, notification of relatives and fictive kin, when a child is taken into custody by the Division of Children and Family Services and related procedures; and

(9) Refer to 9 CAR § 40-917 or 9 CAR § 40-928 if termination of parental rights with power to consent to adoption is granted.

(b) The Adoption Specialist will:

(1) Participate in the staffing if adoption is to be considered as a permanent plan for a child; and

(2) Work with the Office of Chief Counsel attorney to prepare for the termination of parental rights hearing.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2008"

9 CAR § 40-912. Court initiates termination of parental rights.

(a)(1) Sometimes the court will determine that the goal should be termination of parental rights when it is not the recommendation of the Department of Human Services.

(2) In these instances, the following procedures will apply.

(b) The Family Service Worker will:

(1) Work with the Office of Chief Counsel attorney to file a petition to terminate parental rights within thirty (30) days from the date of the entry of the court order;

(2) Notify the Area Director in writing with a copy of the order attached;

(3) Consult the County Supervisor and the Office of Chief Counsel attorney immediately if the order should be appealed or if a rehearing is appropriate;

(4) Work with the Office of Chief Counsel attorney to prepare for termination of parental rights hearing;

(5)(A) Schedule and conduct a staffing, if applicable, to determine if continuing contact with the birth/legal parent or parents or putative parent could cause harm to the child and to determine the likelihood that the child will be adopted if the termination petition is granted.

(B) Those invited to participate in the staffing are the birth/legal parent, attorney for the parent, age-appropriate child, the Office of Chief Counsel attorney, County Supervisor, Adoption Specialist, attorney ad litem, and foster parents;

(6) Provide the Office of Chief Counsel attorney with the name and address of any grandparent who is entitled to notice based on the conditions listed in 9 CAR § 40-406, notification of relatives and fictive kin, when a child is taken into custody by the Division of Children and Family Services and related procedures;

(7) Provide the Office of Chief Counsel attorney with the name and last known address of a birth/legal parent or parents or putative parent or parents so that notice of

the termination petition can be provided; and

(8) Refer to 9 CAR § 40-917 or 9 CAR § 40-928 if termination of parental rights with power to consent to adoption is granted.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-913. Custodial/noncustodial parent or parents requests termination of parental rights.

(a) When parents want to relinquish custody to the Department of Human Services and free a child for a permanent placement (refer to 9 CAR § 40-916), the Family Service Worker or the Adoption Specialist (for unborn or newborn infants only) will:

(1) Discuss service options and offer services to maintain the family unit;

(2)(A) Read to the parent the section of the consent form that explains the right to withdraw consent to termination of parental rights form.

(B) The consent to terminate parental rights shall state the person has the right to withdraw consent, within ten (10) calendar days from the signature date, by filing an affidavit with the clerk of the Juvenile Division of Circuit Court in the county designated by the consent as the county in which the termination of parental rights will be filed, and providing the address of the juvenile court clerk of the county in which the termination of parental rights will be filed.

(C) The Family Service Worker will assist the parent in filing the affidavit to withdraw parental consent.

(D) If the ten-day period ends on a weekend or legal holiday, the parent may file the affidavit the next working day.

(E) No fee shall be charged for the filing of the affidavit; and

(3) Notify the Office of Chief Counsel attorney.

(b) If the parents still wish to relinquish custody to the Department of Human Services (refer to 9 CAR § 40-916) after efforts to preserve the family have been offered, the Family Service Worker or the Adoption Specialist (for unborn or newborn infants only), will:

(1) Present an OCC-410: Consent to Termination of Parental Rights to the parents and explain the form;

(2) Notify County Supervisor in writing if parents sign OCC-410, with a copy attached;

(3) Notify the Office of Chief Counsel attorney in writing with the original OCC-410 attached;

(4)(A) Schedule and conduct a staffing, if applicable, to determine if continuing contact with the custodial/noncustodial parent or parents or putative parent could cause harm to the child and to determine the likelihood that the child will be adopted if the termination petition is granted.

(B) Those invited to participate in the staffing are the custodial/noncustodial parent or parents, attorney for the parent, age-appropriate child, the Office of Chief Counsel attorney, County Supervisor, Adoption Specialist, attorney ad litem, and foster parents;

(5) Obtain written consent of the Area Director, if applicable;

(6) Work with the Office of Chief Counsel attorney to prepare for termination of parental rights hearing;

(7) Provide the Office of Chief Counsel attorney with the name and last known address of a custodial/noncustodial parent or parents or putative parent or parents so that notice of the termination petition can be provided; and

(8) Refer to 9 CAR § 40-917 or 9 CAR § 40-928 if termination of parental rights with power to consent to adoption is granted.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-914. Fast track adoption under Garrett's Law.

(a)(1) If a report of neglect under the Arkansas Code § 12-18-103(14)(B)(i)*(a)* or Arkansas Code § 12-18-103(14)(B)(i)*(b)* (herein after referred to as a Garrett's Law report) is made to the Division of Arkansas State Police Child Abuse Hotline, the mother has the option to fast track the adoption of her newborn.

(2) As used in this procedure, "newborn" means an infant who is thirty (30) days of age or younger.

(3) The ability of the newborn's mother to fast track the adoption under Garrett's Law means the mother has the option to place the newborn for:

(A) Adoption through a licensed child placement agency under the Child Welfare Agency Licensing Act, Arkansas Code § 9-28-401 et seq.; or

(B) A private adoption through a person licensed to practice medicine or law.

(b)(1) A fast track adoption under Garrett's Law may occur for newborns not in the custody of the Division of Children and Family Services and for those newborns who are already in Division of Children and Family Services custody.

(2) Each scenario is described below.

(c) **Fast track adoption under Garrett's Law for a newborn not in Division of Children and Family Services custody.**

(1)(A) If the mother elects to perform subdivision (a)(3)(A) of this section or subdivision (a)(3)(B) of this section, above, during the course of a child maltreatment investigation, the Division of Children and Family Services will consult with the Office of Chief Counsel immediately.

(B) The Division of Children and Family Services will not take a hold of the newborn before consulting with the Office of Chief Counsel.

(2) If a hold is not taken on the newborn and the mother carries out subdivision (a)(3)(A) of this section or subdivision (a)(3)(B) of this section, above, the Division of Children and Family Services is not required to make a home visit to the selected adoptive home since it is not considered a Division of Children and Family Services adoptive home and also because the newborn is not in Division of Children and Family Services custody.

(3) The home visit is performed by the licensed child placement agency facilitating the adoption or overseen by the person licensed to practice medicine or law who is facilitating the adoption.

(4)(A) Similarly, if the mother elects to perform subdivision (a)(3)(A) of this

section or subdivision (a)(3)(B) of this section, above, during the course of a child maltreatment investigation, the Division of Children and Family Services is not required to conduct a home visit at the biological mother's residence unless there are siblings or other children under the care of the mother living in the home whose safety must be assessed.

(B) The Division of Children and Family Services will consult with Office of Chief Counsel in this regard to verify the need, or lack thereof, for a home visit to the biological mother's home when a fast track adoption of a newborn involved in a Garrett's Law referral is in process.

(C) The Division of Children and Family Services and the Office of Chief Counsel will also confer each business day until the fast track adoption has finalized to monitor whether the mother withdraws her consent to the adoption.

(D) If the mother withdraws her consent to the adoption, the Department of Human Services will initiate an action to ensure the protection of the child, including without limitation taking the child into custody if custody is warranted to protect the health and safety of the child.

(d) **Fast track adoption under Garrett's Law for a newborn in the Division of Children and Family Services custody.**

(1) If the Division of Children and Family Services takes custody of the newborn as the result of the Garrett's Law investigation, the mother still has the option for a fast track adoption to place the newborn for:

(A) Adoption through a licensed child placement agency under the Child Welfare Agency Licensing Act; or

(B) A private adoption with a person licensed to practice medicine or law.

(2)(A) However, if the proposed adoptive family, to include a relative family, has not completed the adoptive home study process, including the required criminal background checks, the Division of Children and Family Services will place the newborn in a resource home that is licensed and approved under the Child Welfare Agency Licensing Act.

(B) The newborn will remain in a licensed or approved resource home or

in the custody of the department until the required home study and criminal background checks are completed on the proposed adoptive parents.

(C) In addition, if the newborn is in the custody of the department:

(i) An order transferring custody to the proposed adoptive parents is required before the newborn is placed in the home of the proposed adoptive parents;

(ii) Any petition for adoption shall be filed in the open dependency-neglect case; and

(iii) The adoption shall be granted only if the proposed adoptive placement is in the best interests of the newborn.

(3) An adoption by a relative of the newborn shall be denied unless:

(A) The proposed relative adoptive parents have an approved home study, or the Division of Children and Family Services approves the adoption (under state law on adoption, child welfare agency licensing laws and regulations, and department policy and procedures);

(B) The court determines the proposed relative adoptive parents have the capacity and willingness to abide by orders regarding care, supervision, and custody (so that child protection will not be an issue if the adoption is granted); or

(C) The court enters an order describing the level of contact, if any, that is permitted between the birth parent and the proposed relative adoptive parents and the consequences for violation of the order.

(4) If the Division of Children and Family Services is the licensed child placement agency selected by the mother to facilitate the adoption of her newborn that has already entered the Division of Children and Family Services custody, the Division of Children and Family Services will conduct the required home study and all other requirements for opening a resource home with an adoptive service on the proposed adoptive family, including a relative family, as prescribed by 9 CAR § 40-806.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of

Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-915. Decisions involving children in Department of Human Services custody whose parents' rights have been terminated.

(a)(1) The Department of Human Services, Division of Children and Family Services, has designated the Area Director or designee as having the authority to give consent for major decisions for children under the age of eighteen (18) whose parental rights have been terminated.

(2) The Area Director or designee will make decisions regarding such consents with input from local division staff who work directly with the child, as well as other members of the child's team such as the child's attorney ad litem, Court Appointed Special Advocate, and therapist, as applicable.

(3) Major decisions that require the Area Director's or designee's written consent include:

(A) Marriage;

(B) Entry into the United States Armed Forces;

(C) Out-of-state or out-of-country travel; and

(D) Media release that identifies the child as being in foster care (also requires consultation with the department Office of Communications, the department Privacy Officer, and the child's attorney ad litem).

(b)(1) For youth eighteen (18) to twenty-one (21) years of age who elect to participate in the Extended Foster Care Program, the Area Director's or designee's consent is not required for the decisions listed above.

(2) However, division staff will hold a staffing with the youth and the youth's team to discuss the benefits and drawbacks associated with such decisions and to provide guidance to the youth as needed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-916. Birth parents relinquishing infants for adoption under the Safe Haven Act.

(a) Any medical provider, law enforcement agency, or fire department will take possession of a child who is thirty (30) days old or younger, without a court order, if the parents of the child, without expressing an intent to return for the child, leave the child:

(1) With or voluntarily deliver the child to a medical provider (including when a parent leaves a newborn child with a medical provider staff member after delivery of the newborn child), law enforcement agency, fire department; or

(2) In a newborn safety device as described in Arkansas Code § 9-34-202.

(b) A medical provider, law enforcement agency, or fire department that takes possession of a child under the Safe Haven Act will perform any act necessary to protect the physical health and safety of the child.

(c) A medical provider, law enforcement agency, or fire department will keep the identity of a parent who relinquishes a child under Safe Haven provisions confidential and will not release or otherwise make the identity of the parent available, except to a:

(1) Law enforcement agency investigating abuse or neglect of the child that was committed before the child was relinquished; or

(2) Prosecuting attorney pursuing charges against a parent for abuse or neglect of the child that was committed before the child was relinquished.

(d)(1) If the identity of a parent or child is released or made known to the Department of Human Services in violation of Arkansas Code § 9-34-202(b)(2), the case shall proceed as a dependency-neglect action, but with the same protections from liability as if an anonymous Safe Haven surrender was made.

(2) As such, the parent shall not be held criminally liable for the relinquishment or have a true finding of maltreatment or abandonment entered against the parent if that parent's identity is known and the department proceeds under Arkansas Code § 9-27-341.

(3) Rather, a "true but exempt" selection will be made, as applicable, in the Division of Children and Family Services' approved information management system.

(e) Further, the department shall not subsequently use a resulting termination of parental rights against a parent who surrendered his or her child as allowed under the Voluntary Placement of a Child chapter, Title 9, Chapter 34, in Arkansas law.

(f)(1) Upon delivery of the child (to a medical provider, law enforcement agency, or fire department), an appropriate employee (of the medical provider, law enforcement agency, or fire department) will take the child into protective custody for seventy-two (72) hours under the Child Maltreatment Act, Arkansas Code § 12-18-101 et seq.

(2) The person taking the child into protective custody will immediately notify the division.

(g)(1) The division will contact the Office of Chief Counsel to request a petition be filed with the court for an order of emergency custody.

(2) The division will also utilize the Attorney General's Missing Children Services Program along with any other national and state resources to determine whether the child is a missing child before placing the infant in an appropriate legal risk adoptive placement.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"03/2024"

9 CAR § 40-917. Selection, preparation, and finalization of adoptive

placements.

(a) **Jurisdiction and residency requirements.**

(1) The Division of Children and Family Services will participate in the adoption of a minor who is in Department of Human Services custody or for whom the court has retained jurisdiction only if either the person seeking to adopt the child, or the child, is currently a resident of Arkansas.

(2)(A) The family planning to adopt may live in Arkansas or reside out-of-state and have an approved adoption home study from a licensed adoption agency in their state.

(B) The family's home study must be on file in the Adoption Services Unit.

(3) Residency to determine jurisdiction over an adoption may be established in accordance with one (1) of the three (3) following sets of criteria:

(A) A child under the age of six (6) months is a resident of Arkansas if:

(i) The biological mother resided in Arkansas for more than four (4) months prior to the child's birth;

(ii) The child was born in Arkansas or in any city which adjoins the state line or is separated only by a navigable river from an Arkansas city which adjoins the state line; and

(iii)*(a)* The child remains in this state until the interlocutory decree has been entered.

(b) Or in the case of a nonresident adoptive family, upon receipt of Interstate Compact on the Placement of Children (ICPC), Arkansas Code § 9-29-201 et seq., approval, the child and the prospective adoptive parents may go back to their state of residence and subsequently may return to Arkansas for a hearing on the petition for adoption;

(B) A child over the age of six (6) months is a resident of Arkansas if that child:

(i) Has resided in this state for at least six (6) months;

(ii) Currently resides in Arkansas; and

(iii) Is present in this state when the petition for adoption is filed and

heard by a court of competent jurisdiction; or

(C) A person seeking to adopt a child is a resident of Arkansas if that person:

(i) Occupies a dwelling within the state;

(ii) Has a present intent to remain within the state for a period of time; and

(iii) Manifests the genuineness of that intent by establishing an ongoing physical presence within the state with indications that the person's presence within the state is something other than merely transitory in nature.

(b) **Development and assessment of adoptive placements.**

(1)(A) The division recruits, assesses, prepares, and retains resource families interested in adoption.

(B) Development and maintenance of resource homes, including homes designated for adoptive services (to include preadoptive services), will be done as required by policies within 9 CAR § 40-801 et seq.

(C) Criteria for consideration in determining the appropriateness of homes wishing to provide adoptive services will be the same as that of any other approved resource home as outlined in policies within 9 CAR § 40-801 et seq.

(2)(A) When identifying an adoptive family, the division focuses on finding families for children rather than finding children for families.

(B) Assessment and preparation of prospective resource families, that desire to adopt, are completed according to a specific child's needs.

(C) The child's health, safety, and well-being will be of paramount concern in the development of the adoptive placement.

(3)(A) Members of the adoptive household must be physically capable of sustaining a meaningful relationship with the child on a level that meets the child's developmental and therapeutic needs until the child reaches the age of majority.

(B) The adoptive caregivers must be physically capable of providing the child with opportunities for growth and development both emotionally and socially.

(C) Adoption staff may request additional personal health information,

based on healthcare records received.

(4)(A) Each family and child will be carefully assessed and prepared for adoption.

(B) The division provides preplacement services for adoptions to move children into adoptive families in a timely manner.

(C) A child in foster care, placed in an adoptive home, continues status as a child in foster care until finalization of the adoption.

(5)(A) A child in foster care may be placed in a relative or fictive kin resource home that may later adopt the child as appropriate and when in the best interest of the child.

(B) When appropriate, a child's relatives will also be pursued as possible adoptive placements including after termination of parental rights (TPR) (see 9 CAR § 40-910, termination of parental rights) and even if those relatives had not previously or are not currently serving as a relative resource home.

(C) This includes adoption by noncitizen relatives if such a placement is in the best interest of the child.

(6)(A) When in the best interest of the child, the division supports adoption by resource parents or provisional resource parents, who have a well-established relationship with the child in his or her care and who express an interest in adoption without regard to any racial or ethnic differences.

(B) A child in foster care, who resides in a residential or long-term care facility due to illness or disability, may be adopted by a person who has been approved by the division.

(7)(A) The division employees who are related to children in foster care may be approved to adopt their relatives, if they are an appropriate placement.

(B) Other division employees may apply to become resource parents with the intent of adopting.

(C) These employee applications will be considered on a case-by-case basis and must have Director of the Division of Children and Family Services approval.

(8)(A) Siblings will be placed together in the same adoptive home.

(B) Siblings may only be placed separately upon written documentation by a mental health professional, or a judicial ruling that placement of the siblings together would be detrimental to their best interests or is otherwise not possible at the time of placement due to treatment needs of one (1) or more of the siblings (e.g., one (1) of the children is currently in a residential treatment facility and will need to be placed with the siblings in the adoptive home upon completion of treatment).

(C) Maintaining sibling groups will be paramount in adoption considerations.

(c) **Recruitment activities.**

(1) Recruitment for an adoptive placement for a child may begin at any point as appropriate while the child is in foster care.

(2) However, children may not attend matching events until after termination of parental rights has occurred and all relatives and fictive kin for the child have been explored as permanency options for the child.

(3) A thorough search for and evaluation of all relatives and fictive kin must be documented prior to beginning nonrelative recruitment efforts for a child.

(4) Children will attend matching events after termination of parental rights has occurred, even if an appeal of the termination of parental rights is pending.

(5) However, recruitment efforts will not include use of the Arkansas Heart Gallery if an appeal of the termination of parental rights is pending.

(d) **Legal risk placements.**

(1) A legal risk placement is a preadoptive placement with a resource family, involving a child whose parents' rights have not been terminated or an appeal of termination of parental rights is pending.

(2) Legal risk placements may be considered at any time after a child enters foster care.

(3) The division may, in consultation with other parties to the case, consider a legal risk placement when there is limited likelihood that reunification will occur.

(4) The division will be purposeful in the use of legal risk placement, by carefully assessing each individual family's circumstances and the best interest of the

child.

(e) **Disclosure preparation and requirements.**

(1)(A) As soon as an adoptive placement is identified for a child, the Adoption Specialist will create a disclosure for adoption packet for each adoptive child in preparation for formal disclosure to prospective adoptive families.

(B) During the formal disclosure, once the prospective adoptive parents are identified, the Adoption Specialist will discuss the disclosure packet in detail with them.

(C) The disclosure packet is a detailed, health, genetic, and social history of the child, which excludes identifying information pertaining to parent or parents or members of a parent's or parents' family.

(D) The information shall be set forth in a document that is separate from any document containing information identifying the parents or members of the parents' family.

(2)(A) The "CFS-471: Disclosure for Adoption", shall be identified as a detailed, written, health, genetic, and social history, and shall be filed with the clerk before the entry of the adoption decree.

(B) Upon order of the court for good cause shown, the clerk of the circuit court may tender to a person identified by the court a copy of the disclosure for adoption.

(3)(A) If there is a pending child maltreatment report on the family, the Adoption Specialist will stop proceedings until a determination is made.

(B) The investigation is to be reviewed and discussed with the Adoption Supervisor and the Adoption Manager.

(f) **Death of a child in a preadoptive placement.**

(1)(A) When a child in a preadoptive placement dies prior to the finalization of the adoption decree and there is no probable cause to suspect abuse or neglect, the presumptive adoptive parents may be entitled to an adoption decree and birth certificate for the deceased child.

(B) All postmortem adoptions require the division consent.

(C) The preadoptive parents may also be eligible for additional court approved services and accommodations upon request for postmortem adoption services but will not be eligible for an adoption subsidy (this does not refer to legal assistance provided by the Office of Chief Counsel when finalizing the adoption decree).

(2) Specific to the issue of postmortem adoptions, preadoptive homes include:

(A) Placements where the child has been placed in resource care for preadoption with parental rights terminated;

(B) Resource homes in which the parents have made a formal request (CFS-489: Request for Consideration to Adopt) to adopt a child currently placed in their home for foster care; and

(C) Any home in which a provisional resource parent with custody has submitted official notice of intent to adopt the child placed with them.

(3) However, if the child's death is a result of abuse or neglect on the part of the preadoptive parent or parents the adoption decree will not be finalized through the division.

(g) **Services and supports to preadoptive and postadoptive placements.** The division works to support resource families and children placed in resource homes in preadoptive placements and after the finalization of adoptions, to ensure that adoption, when that is the best permanency option, is timely, well-supported, and lifelong.

(h) **Adoption records.**

(1) All records of any adoption, finalized in the State of Arkansas, shall be maintained for ninety-nine (99) years.

(2) The Juvenile Division of Circuit Court shall retain jurisdiction to issue orders of adoption, interlocutory or final, when a juvenile is placed outside the State of Arkansas, unless the court allows for finalization in the receiving state.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of

Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-918. Adoption staffing recommendations.

(a) The Family Service Worker will:

(1) Invite Adoption Specialist to permanency planning staffing;

(2)(A) Prior to the permanency planning staffing, complete CFS-426: Adoption Packet Checklist, ensuring that the child's out-of-home placement record is up to date and that all attachments which are required for an adoption packet (Appendix A) are in the child's record.

(B) These will be copied and forwarded to the Adoption Specialist within three (3) business days after the permanency planning hearing;

(3) Conduct permanency planning staffing and enter a contact, detailing the outcome of the staffing in the Division of Children and Family Services' information management system;

(4) Notify the Adoption Specialist within fourteen (14) days prior to TPR staffing and hearing;

(5) Notify the Adoption Specialist, in writing within two (2) working days of the court hearing, that termination of parental rights with power to consent to adoption has been granted (if the Adoption Specialist was not at the hearing);

(6) Determine if the resource parent, provisional resource parent, or a relative is interested in adopting the child if parental rights have been terminated;

(7)(A) Complete a written account of all relatives for the child, via CFS-305: Relative and Fictive Kin Efforts, including but not limited to, the name, address, phone number, and reasons for denial of placement in the relative or fictive kin home.

(B) This written account should also address the location of the child's siblings and current visitation arrangements.

(C) Provide this written account, of all relatives and fictive kin for the child, to the adoption staff during the permanency planning staffing (as part of the

adoption packet).

(D) Document this written account of relatives in the following locations in the division's information management system:

(i) Contacts screen;

(ii) Collateral information screen;

(iii) Court report relative interest screen;

(iv) Child and Adolescent Needs and Strengths (CANS) assessment collateral; and

(v) Case plan needs;

(8) Schedule and conduct a consideration to adopt staffing within ten (10) working days from the court hearing that terminates parental rights, being sure to include:

(A) Adoption Specialist;

(B) Age-appropriate child;

(C) Provisional or relative/fictive kin resource parent, as applicable;

(D) Resource parent (to include private licensed placement agency (PLPA) and therapeutic foster care (TFC) parents, as applicable);

(E) PLPA or TFC staff, as applicable;

(F) Resource parent's assigned Resource Worker, as applicable;

(G) FSW Supervisor;

(H) Other county staff;

(I) Attorney ad litem;

(J) Office of Chief Counsel attorney;

(K) CASA; and

(L) Other professionals, if applicable;

(9) Utilize CFS-489: Resource Parent Consideration to Adopt to record the desire of the resource parents; and

(10) Enter a contact in the division's information management system detailing the outcome of the consideration to adopt staffing.

(b) The Adoption Specialist will:

(1) Participate in the permanency planning staffing;

(2) Complete a CFS-471: Disclosure for Adoption for each child in need of adoptive placement;

(3) Complete an adoption data match for each child; and

(4) Participate in the consideration to adopt staffing.

(c) After termination of parental rights has occurred the Adoption Specialist will:

(1) If the recommendation from the staffing supports the resource parent, provisional resource parent, or relative adoption, the Adoption Specialist will:

(A) Staff with the Adoption Supervisor;

(B) Within five (5) working days of the staffing, enter a contact in the division's information management system that provides the date of the staffing, names and titles of persons participating, and findings on compliance to the placement criteria and recommendation; and

(C) Complete and send a copy of CFS-447: Consideration to Adopt Staffing Notification to the Family Service Worker, County Supervisor, Adoption Supervisor, resource parent, Office of Chief Counsel attorney, ad litem, and CASA, as appropriate.

(2) If the recommendation from the staffing does not support the resource parent, provisional resource parent, or relative adoption, the Adoption Specialist will:

(A) Assess the recommendation and request any additional information for review with Adoption Supervisor;

(B) Notify the resource parent, provisional resource parent, or relative, in writing, within ten (10) working days of the decision and state the reason or reasons for the decision and internal review procedures; and

(C) Complete and send a copy of CFS-447: Consideration to Adopt Staffing Notification, to the Family Service Worker, County Supervisor, Adoption Supervisor, Office of Chief Counsel attorney, resource parent, ad litem, and CASA, as appropriate.

(3) If those attending the staffing disagree about support of the resource parent, provisional resource parent, or relative adoption, the Adoption Specialist will:

(A) Schedule another staffing within ten (10) working days, to include the Area Director or designee, Adoption Supervisor, and any other appropriate parties; and

(B) Depending on the outcome of the staffing, follow the procedures listed above.

(4) After consultation with Adoption Supervisor, make a decision to approve or deny the resource parent, provisional resource parent, relative or fictive kin's application to adopt within ten (10) working days of receiving the completed home study, and send a written notification to the resource parent, provisional resource parent, or relative, utilizing CFS-447: Consideration to Adopt Staffing Decision.

(5) Explain in the written notification the reason or reasons for denial and the internal review procedures.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-919. Identification of an adoptive placement disclosure.

(a) The Family Service Worker will:

(1) Notify the Adoption Specialist within fourteen (14) days prior to the termination of parental rights (TPR) staffing and hearing;

(2) Send additional attachments to the Adoption Specialist once the initial adoption packet is completed, in order to maintain current information until a child is placed with an adoptive family;

(3) Document the efforts to secure needed attachments and the reason for an attachment not being available, in the child's out-of-home placement record and in the Division of Children and Family Services' information management system;

(4) Provide information requested by the Adoption Specialist in the preparation

of the child's "CFS-418: Adoption Summary" and in the selection of an adoptive family; and

(5)(A) Place siblings together in the same resource home.

(B) But see policy section above for exceptions.

(b) The Child's Adoption Specialist will:

(1)(A) Prior to the TPR hearing, determine if there is a resource home with an open adoptive service, to consider for a child who may have a permanency goal of adoption (enter characteristics of child into the computer matching system to obtain listing of approved adoptive applicants).

(B) If there is not an adequate resource of approved resource homes with an open adoptive service, the Adoption Specialist will initiate generalized recruitment for an adoptive family who may be interested in adopting a child with similar characteristics;

(2) Respond to notification of inquiries timely:

(A)(i) Reply to adoption inquiries within three (3) business days of receipt of notification of inquiry.

(ii) Notification to potential adoptive families can be made by phone or email;

(B) Collect and review home studies for inquiring families within fourteen (14) business days;

(C) Notify inquiring parties of selection status within three (3) business days of reviewing home study;

(D) Respond to out-of-sate inquiries:

(i) Ensure all in-state relatives and fictive kin options have been exhausted;

(ii) Ensure all in-state recruitment efforts have been exhausted (i.e., child is in the Arkansas Heart Gallery, child has been attending matching events, short film has been completed);

(iii) Submit inquirer's home study to Adoption Manager or designee for review;

(iv) Participate in staffing scheduled by and with Adoption Manager or designee regarding best interests of the child in considering an out-of-state inquiry;

(v) Schedule and participate in phone meeting with the inquiring family to include Adoption Supervisor, Adoption Manager or designee, and the child's team;

(vi) If appropriate, schedule a disclosure with the family in Arkansas with expectation the family will travel to Arkansas (at the family's expense) for the disclosure; and

(vii) Complete and submit an ICPC request for adoptive placement and if approved:

(a) Notify Adoption Manager or designee of desire to move forward with out-of-state placement; and

(b) Schedule preplacement visits in Arkansas (inquiring family is responsible for costs associated with arrangements for travel and occurrence of preplacement visits) according to 9 CAR § 40-920, disclosure, preplacement, and placement activities;

(3) Assist the Family Service Worker in preparing the child for adoption;

(4) Ensure compliance with Indian Child Welfare Act of 1978, 25 U.S.C. § 1901 et seq., if applicable, by notifying and working with the Office of Chief Counsel attorney;

(5)(A) Prepare the child's adoption disclosure packet (CFS-418: Adoption Summary and attachments – see Appendix A: Adoption Summary Guidelines) within forty-five (45) days from receipt of the completed adoption packet.

(B)(i) Delete identifying information in the child's disclosure packet as it relates to the child's birth or legal parent and extended family.

(ii) The entire name of all family members should be redacted from all documents;

(C) Send the child's disclosure packet to the Adoption Supervisor within four (4) months of the court hearing that terminates parental rights.

(D) Make a copy of the nonidentified disclosure packet for the selected

adoptive family and one for the family's Adoption Specialist, if different from the child's Adoption Specialist.

(E) Complete and submit encumbrance paperwork for completion of the child's adoption summary;

(6) Enter characteristics of the child into the division's information management matching system, adoption data matching, prior to the termination of parental rights hearing to obtain a listing of approved and registered adoptive applicants;

(7) Decide within fourteen (14) working days from receiving the listing and home studies if recruitment of an adoptive family is needed;

(8) Complete and maintain a "CFS-433: Individualized Recruitment Plan" if an appropriate adoptive family is not available;

(9) Refer eligible children for placement on the Arkansas Heart Gallery:

(A) Ensure the child meets the following eligibility requirements:

(i) Termination of parental rights occurred more than thirty (30) days ago;

(ii) No legal appeals are pending;

(iii) Child is not in a preadoptive placement; and

(iv) Child is not placed with resource parents who are likely to adopt or with relatives or fictive kin who will likely assume custody or adopt;

(B) Within ten (10) business days of determining the child is eligible for placement on the Arkansas Heart Gallery, send a referral email to the Project Zero Logistics Coordinator, the division Public Information Specialist, and the division Adoption Manager including:

(i) Child's full name;

(ii) Child's gender;

(iii) Child's case number;

(iv) Child's client ID;

(v) Child's date of birth;

(vi) The division area;

(vii) The division county; and

(viii) Information about sibling group, as applicable, detailing if joint adoptive placement is being sought; and

(C) Upon approval for placement on the Arkansas Heart Gallery:

(i)*(a)* Complete an Arkansas Heart Gallery bio request form on the child or sibling group.

(b) The bio request form can be obtained from the division or downloaded from DHS Share;

(ii) Submit completed bio request form to Project Zero Logistics Coordinator;

(iii) Coordinate with Project Zero Logistics Coordinator to complete a professional photo shoot for the child or sibling group, including coordination of photo location and transportation arrangements for the child or sibling group;

(iv) Respond to inquiries from the Arkansas Heart Gallery within three (3) business days;

(v) Notify the Project Zero Logistics Coordinator within five (5) business days of identification of a placement match; and

(vi) Coordinate with the Project Zero Logistics Coordinator for removal of the child from the Arkansas Heart Gallery within five (5) business days when:

(a) The child's adoption is finalized;

(b) The child's permanency goal changes;

(c) The child ages out of foster care;

(d) The child enters extended foster care; or

(e) The child is placed with relatives or fictive kin;

(10) Monitor and document the recruitment activities on the "CFS-433: Individualized Recruitment Plan";

(11) Enter characteristics of the child into the computer matching system on a consistent basis if the initial listing did not result in the selection of an appropriate adoptive family;

(12)(A) Update the child's CFS-418: Adoption Summary, annually until an appropriate adoptive family is selected, and ensure that attachments are updated.

(B) Send a copy of the updated adoption summary and special evaluations to the Adoptions Manager or designee if the child has a photo-listing, website, or adoption exchange registration;

(13)(A) Conduct identification staffing by providing home studies for adoptive homes, chosen by child's Adoption Specialist as potential matches for the child, to CASA and ad litem, as appropriate.

(B) This should include a narrowed pool of one (1) to three (3) home studies.

(C) All input and recommendations from the child's support team should be considered in making a final selection of home study;

(14)(A) Select the most appropriate approved adoptive applicant for the child, consistent with the child's needs.

(B) Ensure the applicant's ability to meet the special needs of the child, Minimum Licensing Standards for Child Welfare Agencies (Placement), and the division policy for resource homes (see 9 CAR § 40-801 et seq., Development of Resource Homes and Support to Resource Parents);

(15)(A) Upon approval of the identified family forward packets and "CFS-471: Disclosure for Adoption" to the family's Adoption Specialist, if different from the child's Adoption Specialist.

(B) The disclosure packet should include significant information about the child including the need for special resources or services, provide a schedule for preplacement activities, and convey any other significant information that relates to the placement of the child;

(16) Prepare and present to the Family's Adoption Specialist, resource parent, provisional resource parent, relative, or fictive kin, one (1) nonidentifying copy of the child's disclosure packet and a complete "CFS-471: Disclosure for Adoption" during the assessment and preparation process;

(17)(A) Schedule and conduct a selection staffing with the Family Service

Worker, the family's Adoption Specialist, and other appropriate division staff and professionals (including the child's attorney ad-litem, CASA appointed to the child, and PLPA or TFC staff, as applicable).

(B) Complete and route "CFS-590: Invitation to Family Centered Meeting" to all court parties.

(C)(i) Create a written preplacement visitation plan in conjunction with the parties which addresses the logistical, therapeutic, and developmental needs of all parties.

(ii) Ensure that the plan is modified throughout the preplacement process according to the adjustment of the child and adoptive family.

(iii) Refer to 9 CAR § 40-920, disclosure, preplacement, and placement activities, for preplacement visitation guidelines.

(D) In the division's information management system, complete the provider adoption considerations tab on the selected family (preadoptive home service) identifying the considered foster child.

(E)(i) Send the completed "CFS-470: Selection of Adoptive Family" to the Adoption Supervisor within thirty (30) working days.

(ii) Attach a copy of the child's "CFS-418: Adoption Summary" and the selected family's home study to the CFS-470.

(F) Discuss delays in the selection of an adoptive family with the Adoption Supervisor and document reasons for the delay.

(G) Document the selection by completing the "CFS-470: Selection of Adoptive Family";

(18)(A) Determine immediately if another approved adoptive applicant can be selected if the Adoption Supervisor, the adoptive family, or child does not agree with a selection.

(B) Document if another approved adoptive family cannot be selected and continue recruitment activities;

(19)(A) Provide written or verbal notification to the Family's Resource Worker for each approved adoptive applicant who has been considered, and document in the

division's information management system.

(B) The Child's Adoption Specialist will notify the approved applicant in writing if he or she had asked to be considered for a child who is registered in the division photo-listing and website but was not selected;

(20) Initiate and follow ICPC procedures if an out-of-state approved adoptive applicant is selected; and

(21) Discuss any delays in completing the assessment and preparation process with the Adoption Supervisor and document reasons for the delay.

(c) The Adoption Supervisor will:

(1) Ensure eligible children are referred to the Arkansas Heart Gallery;

(2) Assess the child's disclosure packet, the home study of the approved adoptive applicant, and the "CFS-470: Selection of Adoptive Family" from the Adoption Specialist and then determine the appropriateness of the selection within ten (10) working days;

(3) Document the determination to approve or deny the selection on the "CFS-470: Selection of Adoptive Family" from the Adoption Specialist, then explain in writing the reason or reasons for a denial; and

(4) Return all information to the Adoption Specialist.

(d) The Adoptions Manager or designee will:

(1) Coordinate and maintain the computer matching system, to assist in the selection of an adoptive family;

(2) Maintain the file for home studies of approved adoptive applicants (regardless of the state they reside in); and

(3) Provide technical assistance on recruitment and selection of adoptive families.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "ID" means identification.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-920. Disclosure, preplacement, and placement activities.

(a) The Family Service Worker will:

(1) Continue to prepare the child for adoption;

(2) Prepare and support the resource family, or out-of-home placement provider, for separation and enlist their help with the child;

(3) Prepare child's school personnel, therapist, and other professionals for the proposed adoption;

(4) Participate in preplacement and placement activities and remain involved until the process is completed;

(5) Assess the feelings and reactions of the child and the resource parents or out-of-home placement provider, then share these with the child's Adoption Specialist;

(6) Ensure that the child's clothing and personal belongings are appropriately prepared and packed for the move to the adoptive family's home;

(7)(A) Transfer the child's out-of-home placement record (including in the Division of Children and Family Services' information management system) to the child's Adoption Specialist within five (5) working days of the placement date (after preplacement visits have been completed).

(B) The child's Adoption Specialist will assume primary case management responsibility at the time of placement; and

(8) In the division's information management system:

(A) Complete the foster child's termination of parents rights screen on each parent;

(B) Update contact screen, characteristic screen, medical screen, CANS, case plan (change goal to adoption), risk assessment, and court hearing screen to document all current available information on the child; and

(C) In the assign or transfer screen, assign the family's Adoption Specialist as the primary responsible person for case.

(b) The child's Adoption Specialist will:

(1) Review and discuss the disclosure packet with the family's Adoption Specialist, resource parent, provisional resource parent, relative, or fictive kin;

(2) Secure signatures on the "CFS-471: Disclosure for Adoption";

(3) Prepare the child to meet the selected adoptive family, with the assistance of the family's Adoption Specialist, after the adoptive parents have signed the "CFS-471: Disclosure for Adoption";

(4) Coordinate with the family's Adoption Specialist times, dates, places, and activities for the preplacement visitation schedule; and

(5) In the enter or exit screen, exit foster child from current resource home placement, selecting preadoptive placement, and enter the child in the preadoptive service of the adoptive family's home.

(c) After the selection of an adoptive family has been approved, all the following activities will be conducted collaboratively between the child's and the family's Adoption Specialists (if the child and family do not have the same Adoption Specialist):

(1) Continue to assist the Family Service Worker in preparing the child for adoption;

(2) Prepare the child to meet the selected adoptive family (including the presentation of the family's photograph album) after the adoptive parents have signed the disclosure form;

(3) Arrange and conduct preplacement visits between the child and the selected adoptive family according to the following guidelines:

(A) There must be at least three (3) preplacement visits for a child who is two (2) years of age or older;

(B) No preplacement visits shall be scheduled until the selected adoptive parents have signed the disclosure form;

(C) Supervise the first two (2) preplacement visits for every child; and

(D) Follow a natural progression for increasing visitation, as appropriate

for the child's age and development, to include:

(i) Supervise first two (2) visits for every child;

(ii) Complete at least one (1) all-day visit;

(iii) Complete at least one (1) overnight visit that does not transition directly into a placement in the home;

(iv) Complete at least one (1) weekend visit that does not transition directly into a placement in the home; and

(v) Notify the child's attorney ad litem when preadoptive visits begin and when placement is to be made;

(4) Supervise visits of the child with the selected adoptive family, as appropriate;

(5)(A) Review information about the child with the selected adoptive family and answer questions.

(B) If adopted youth is age sixteen (16) or older, inform the family that the youth is eligible for ETV (educational training voucher), and that they may participate in youth development activities and life skills classes.

(C) Refer youth age sixteen (16) or older to the TYS, if youth desires to participate in said activities;

(6) Provide the preadoptive family with CFS-468: Notification of Adoptive Placement;

(7) Provide support to the selected adoptive family;

(8) Assess the development of the relationship between the selected adoptive family and the child;

(9) Arrange any needed appointments with the family's Adoption Specialist, for the selected adoptive family to meet with special providers (i.e., mental health counselors, doctors, school personnel, etc.);

(10) Ensure the preadoptive family obtains a PCP for the child, within thirty (30) working days prior to adoptive placement, and ensure the family understands the need for completion of the "CFS-352: Episodic Form" for each medical appointment occurring prior to finalization of the adoption;

(11) Document dates of preplacement visits, contacts, activities, progress, concerns, etc., and send a copy to the Adoption Supervisor, Family Service Worker, and Office of Chief Counsel attorney for the child's initiating county;

(12) Enter current resource parent or relative as an adoptive resource completing the resource screens;

(13) Forward a "CFS-300-A: Attorney-Ad-Litem, Court Appointed Special Advocate and Child Notification of Changes in Out-of-Home Placement" to the Adoption Supervisor and all other parties, within five (5) working days of preadoptive placement;

(14) Assume primary case management once preadoptive placement occurs;

(15) Request a resident county Adoption Specialist to be assigned by completing the assign or transfer screen in the division's information management system, as appropriate; and

(16) If child is to exit current resource care placement to enter relative's adoptive home, exit child from current resource parent placement and enter child into the relative's adoptive home in the placement screens in the child's protective service case.

(d) The family's Adoption Specialist will:

(1)(A) Discuss and coordinate with the selected adoptive parent, resources which a child may need (adoption subsidy, counseling, medical, educational services, etc.).

(B) In addition, when discussing an adoption subsidy, the family's Adoption Specialist will be clear that they will only be screening for a determination of special needs, subsidy eligibility, and making a recommendation to the adoption unit.

(C) The Adoption Specialist will notify the family of approval or denial of an adoption subsidy (see 9 CAR § 40-931, initial application for adoption subsidy).

(D) The family's Adoption Specialist must also explore other resources and assistance that may be available for the child and adoptive family when screening for a subsidy; and

(2) Retrieve and properly dispose of "CFS-471: Adoption Disclosure" provided to any preadoptive resource family choosing not to move forward with preadoptive

placement.

(e) The Adoption/Resource Supervisor will:

(1)(A) Assign the child's Adoption Specialist as the Primary Worker in the assign/transfer screen.

(B) The child remains in the current resource placement until finalization;

(2) Enter current resource parent or relative, as an adoptive resource, by completing the resource screens; and

(3) Monitor and ensure an appropriate preplacement visitation schedule is developed and maintained while ensuring that the plan is modified according to the adjustment of the child and adoptive family throughout the preplacement process.

(f) The resource parent or out-of-home placement provider will:

(1) Help prepare the child for adoption;

(2) Participate in the preplacement and placement activities, as requested by Adoption Specialist;

(3) Provide the selected adoptive family with information about the child, as requested by Adoption Specialist;

(4) Assess and report the child's feelings, actions, and reactions to the Family Service Worker or the Adoption Specialist; and

(5) Encourage and support the child to accept the adoptive family.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-921. Legal risk placement.

(a) The Family Service Worker will:

(1) Evaluate if legal risk placement is appropriate for the child based on the

following considerations:

(A) Family history of foster care episodes or prior involuntary termination of parental rights;

(B) Prior placement history of the child;

(C) Special needs of the child;

(D) Sibling group information and placement needs;

(E) Parent's level of current participation in case planning and court ordered services; and

(F) Availability of relative placement and relative permanency options (do not consider legal risk placement if all relative and fictive kin options have not been explored);

(2) Conduct a conference with the Adoption Specialist and County Supervisor requesting location of a legal risk placement; and

(3) Provide all information listed above to the Adoption Specialist during the conference.

(b) The child's Adoption Specialist will:

(1) Email a request for approval of legal risk placement, to the Area Director or designee, to include:

(A) Relative information;

(B) Sibling information;

(C) General circumstances of the case and family;

(D) Special needs of the child;

(E) Legal status of the case; and

(F) Data matching information;

(2) Expedite concurrent planning efforts, by preparing CFS-471: Disclosure for Adoption, as soon as discussions of legal risk placement occur; and

(3) Upon receipt of approval for legal risk placement from Area Director or designee:

(A) Recruit a legal risk placement for the child or sibling group or verify that the current resource parent wishes to be a legal risk placement; and

(B)(i) Present and explain the "CFS-420: Legal Risk Adoption Placement Agreement", to the selected resource parent or parents if a legal risk adoptive placement is planned.

(ii) Secure the signature of the resource parent or parents on the CFS-420, and secure approval from the Adoptions Manager or designee prior to placement.

(c) The Area Director or designee will:

(1) Review the request for legal risk placement;

(2) Submit the request for legal risk placement to the Assistant Director of Field Operations or designee; and

(3) Email an approval or denial of request to the Adoption Specialist within five (5) business days.

(d) The Assistant Director of Field Operations or designee will:

(1) Review the request for legal risk placement; and

(2) Consult with the Adoption Manager or designee as necessary and email an approval or denial of request to the Area Director or designee within three (3) business days.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-922. When a petition to adopt is filed without prior knowledge or consent of the Division of Children and Family Services.

(a) The Family Service Worker or Adoption Specialist, when learning about the petition to adopt, will immediately notify the Area Director or designee, Adoption Supervisor, Office of Chief Counsel attorney, and Adoption Manager or designee, then

follow up with written notification.

(b) The Family Service Worker will:

(1) Arrange a staffing to determine if adoptive placement is appropriate to consider;

(2) Submit the results and recommendations from the staffing to the Area Director or designee, Adoptions Specialist, and Adoptions Supervisor;

(3) Direct staff to follow procedures outlined above;

(4) Work with the Office of Chief Counsel attorney in regard to pending litigation if it appears that the resource parent, provisional resource parent, relative, or fictive kin would not be suitable adoptive parents for the child; and

(5) Notify the Adoption Supervisor if information regarding other prospective adoptive families for the child is needed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-923. Postplacement services.

(a) The Family's Adoption Specialist will:

(1) Provide casework, counseling, support, and referral to needed resources and services until the adoption is finalized;

(2) Inform the family about postadoption services, via "PUB 31: Post Adoptive Services", and document such in document tracking in the Division of Children and Family Services' information management system;

(3) Visit weekly during the first month of placement, biweekly during the second month of placement (monthly thereafter), and make contact as needed with the family until the adoption is finalized;

(4) Have a private conversation with age-appropriate children during each visit;

(5)(A) Submit a narrative, documenting the place and dates of postplacement contacts, conversations about post adoptive services, activities, progress, concerns, etc.

(B) Narrative entries regarding visits and services will be approved in the division's information management system by the Adoption Supervisor;

(6) During the fourth month of adoptive placement, complete the adoption subsidy request packet and submit to Adoption Supervisor by following all procedures as outlined in 9 CAR § 40-931; and

(7) Forward approved subsidy request to Subsidy Coordinator.

(b) The child's Adoption Specialist will:

(1) Notify preadoptive family of the date for a judicial review;

(2)(A) Recommend initiation of procedures to finalize the adoption, upon receipt of approval of the adoption by the Adoption Supervisor and approval of adoption subsidy, if applicable, and if the child has resided with the resource parent, provisional resource parent, or relative for at least six (6) months.

(B) However, residence in the home is not required for a minor to be adopted (if in Department of Human Services custody) and the minor must reside outside the home to receive medically necessary health care;

(3) Inform the family about postadoption services, via "PUB 31: Post Adoptive Services", and document such in document tracking in the division's information management system; and

(4) Complete all court hearing screens, for all judicial reviews, in the division's information management system.

(c) Finally, the Adoptions Supervisor will review all requests for adoption subsidy and forward a written determination for each request to the family's Adoption Specialist within three (3) business days of receipt of request.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-924. Disruption of preadoptive placement.

(a) If disruption of an adoptive placement is imminent, the family's Adoption Specialist will:

(1) Provide appropriate services to preserve the family and prevent disruption, if applicable; and

(2) Prepare the adoptive family for the disruption and provide casework counseling and referrals for needed services.

(b) If disruption of an adoptive placement is imminent, the child's Adoption Specialist will:

(1) Schedule and conduct a staffing to include those listed above and the resource parents, provisional resource parent or parents or relative, any age appropriate child, and any other significant individuals;

(2) Immediately notify the Adoption Supervisor, Adoptions Manager, County Supervisor, Family Service Worker, Adoption Manager, Office of Chief Counsel attorney, and attorney ad litem;

(3) In the Division of Children and Family Services' information management system:

(A) Document the staffing, reason for disruption, and all contacts with adoptive family in the contacts screen; and

(B) Exit the child from their current adoptive home placement by selecting placement resource requested removal or child requested change of placement, in the enter/exit screen; and

(4) Prepare the child for the disruption and provide casework, counseling, and referrals for needed services.

(c) The Adoption Supervisor will:

(1) Transfer the case back to the last Primary Assigned Family Service Worker in the assign/transfer screen; and

(2)(A) Return case management responsibility to the Family Service Worker (of the initiating county) and transfer primary worker designation (in the division's information management system) back to the Family Service Worker if it is not the plan to immediately select another adoptive family, and disruption occurs.

(B) Return the child's paper record back to the Family Service Worker within five (5) working days of the disruption.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-925. When a child dies prior to finalization for adoption.

(a) Upon the death of a child who is in a preadoptive placement, the child's Adoption Specialist will inform the resource parent or parents that:

(1)(A) The adoption decree may be finalized through the court, upon parent's request.

(B) The parents have thirty (30) days to make such request;

(2) The child's last name may be:

(A) Legally changed to that of the adoptive family; and

(B) Inscribed on a headstone or other memorial marker;

(3) The child may be buried in a location specified by the family; and

(4) The Division of Children and Family Services will pay for reasonable, ordinary, and necessary funeral expenses.

(b) Adoption staff will include the following documents in the adoption packet:

(1) "CFS-432: Checklist for Recommendation for Finalization";

(2) Initial home study of the adoptive family and all updates;

(3) "CFS-418: Adoption Summary" of the child and all updates;

(4) "CFS-471: Signed Disclosure for Adoption";

(5) Report of adoption (accessible at: http://www.healthy.arkansas.gov/images/uploads/pdf/resource);

(6) Court order terminating parental rights;

(7) Certified birth certificate of child;

(8) Federal Bureau of Investigation, state criminal record checks, and child maltreatment checks as applicable;

(9) "CFS-428: Adoption Assistance", if applicable;

(10) Adoption information sheet; and

(11) Death certificate or medical notes recording the death.

(c)(1) The Adoption Supervisor may approve the adoption consent.

(2) Any denial of a postmortem adoption decree must be reviewed by the Director of the Division of Children and Family Services or designee.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-926. Finalization of an adoption.

(a) The child's Adoption Specialist will:

(1) Forward the following to the Adoption Supervisor when submitting the recommendation to finalize the adoption:

(A) "CFS-432: Checklist for Recommendation for Finalization";

(B) Initial home study of the adoptive family and all updates;

(C) "CFS-418: Adoption Summary" of the child and all updates;

(D) "CFS-471: Signed Disclosure for Adoption";

(E) Report of adoption (accessible at http://www.healthy.arkansas.gov/images/uploads/pdf/resource);;

(F) Court order terminating parental rights;

(G) Certified birth certificate of child;

(H) Federal Bureau of Investigation, state criminal record checks, and child maltreatment checks as applicable;

(I) "CFS-428: Adoption Assistance" (if applicable); and

(J) Adoption information sheet;

(2) In the Division of Children and Family Services' information management system, complete the adoption characteristics and medical section of the child's characteristics screen;

(3) Inform the family of postadoption services utilizing "Pub 31: Post Adoptive Services";

(4)(A) Document in the division's information management system narrative the plan of action to resolve barriers to finalizing the adoption (if the Adoption Supervisor does not agree with the recommendation).

(B) Inform the family of the recommendation;

(5) Monitor and document the implementation of the plan of action and progress toward achieving the plan;

(6) Assist Office of Chief Counsel attorney in completing the report of adoption;

(7) Provide detailed instructions for obtaining a new birth certificate to the adoptive family upon adoption finalization;

(8) Forward within five (5) working days of Supervisor approval a packet of information to the Office of Chief Counsel attorney or private agency attorney which includes:

(A) Signed CFS-471: Adoption Disclosure;

(B) Certified birth certificate of child;

(C) Termination of parental rights court order;

(D) Home study of the adoptive family;

(E) Child's CFS-418: Adoption Summary and updates;

(F) CFS-428: Adoption Assistance, if applicable;

(G) Federal Bureau of Investigations, state criminal and child maltreatment record checks as applicable;

(H) Adoption information sheet; and

(I) Report of adoption;

(9) Obtain a certified copy of the final decree of adoption and supplemental adoption order and place them in the child's case file;

(10) In the division's information management system:

(A) Child protective service case:

(i) Ensure preadoptive parent has been added as a collateral in the collateral information screen;

(ii) Enter a contact in the contacts screen, addressing the court hearing and documenting, as appropriate, case closure staffing, adoption contact, and legal services;

(iii) Complete affidavit screen, including the postadoptive services tab;

(iv) Complete a discharge CANS and update service status for all children to be adopted;

(v) Exit child out of current preadoptive placement by selecting adoption as exit reason and entering the finalized adoption date as exit date;

(vi) Ensure completion of the termination of parental rights screen, for each of the child's parents, in the division's information management system;

(vii) Complete the court hearing screen for the hearing that finalized the adoption;

(viii) Complete necessary steps under "Adoption Case" below;

(ix) Close child protective service case in case summary screen if all children are adopted and no other child protective services are being offered to birth family or siblings; and

(x) End-date all children to be adopted in the client screen, if protective services case is to remain open; and

(B) Adoption case:

(i) Open new adoption case with adoptive parents and adoptive child as clients or locate previous adoption case and reopen, as appropriate;

(ii) Complete client general information screens on all clients, including relationship screens (retrieve the adoptive child's characteristics, eligibility, and affidavit of disclosure screens from old child protective service case);

(iii) Complete adoption screens;

(iv) Complete adoption subsidy screens, as applicable, and click approval button to submit subsidy for supervisor approval;

(v)*(a)* Associate the adoptive case with the child's protective service case by entering other and then make association.

(b) Enter the case number for the protective service case to create an association; and

(vi) Document contacts with adoptive family in contacts screen;

(11) Scan and email the following to Eligibility Unit Analyst and Subsidy Coordinator:

(A) CFS-494: Notification of Adoption for Medicaid;

(B) Decree of adoption; and

(C) Approved adoption subsidy; and

(12) By interoffice mail, deliver to the Subsidy Coordinator the decree of adoption, petition for adoption, and original signed adoption subsidy.

(b) The Adoption Supervisor will:

(1) Assess the legal packet, information, and recommendation which has been forwarded by the Adoption Specialist, within five (5) working days;

(2) Prepare and sign a consent for adoption if it is agreed that procedures to finalize the adoption should be initiated;

(3) Notify the Adoption Specialist in writing to explain if there is disagreement to initiating the procedures to finalize the adoption;

(4) Formulate with the Adoption Specialist a plan of action to resolve the barriers to finalizing the adoption; and

(5) Assign the finalized adoption case as primary to the Adoption Manager.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-927. Postadoption services.

(a) After an adoption has been finalized, the following services may be offered to help preserve adoptive families:

(1) Adoption subsidy;

(2) Casework management;

(3) Education and training;

(4) Family support services;

(5) Information about, and referral to, service providers;

(6) Mutual consent voluntary adoption registry;

(7) Resource library;

(8) Respite care; and

(9) Support groups.

(b) The Adoption Specialist will:

(1) Open a supportive services case for the family;

(2) Make referrals and arrange services upon request from the adoptive family;

(3) Assist the adoptive family in completing forms and in following procedures;

(4) Document contacts, activities, progress, concerns, etc., in provider screens;

(5) Request and participate in an interdivisional staffing, as appropriate; and

(6) For cases remaining open more than thirty (30) days, transfer the supportive services case to a protective services unit for assignment to FSW for further provision of services.

(c) The Adoption Supervisor will:

(1) Assign the case to a protective services case unit inbox; and

(2) Consult with Protective Services Unit Supervisor to provide information regarding the needs of the family.

(d) The Protective Services Unit Supervisor will:

(1) Assign the case to an FSW for service provision;

(2) Transfer information from Adoption Supervisor to FSW; and

(3) Ensure appropriate services are provided for family preservation.

(e) The FSW will provide foster care and reunification services as appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-928. Legal custodian petition to adopt a child previously in foster care.

(a)(1) When a child in foster care achieves permanency through a guardianship or an order of permanent custody, the child's guardian or custodian may wish to adopt the child in the future.

(2) The guardian or custodian may request that the Division of Children and Family Services provide services to assist the guardian or custodian with the adoption.

(b)(1) The division will forward a request for adoption services to the division's contracted provider for legal services.

(2) The legal services contract provider will review the request and determine if adoption is likely to be granted under the circumstances.

(3) If there is likelihood of success in finalizing an adoption for the guardian or custodian, the division will request that the legal services contract provider proceed with initiating the adoption proceedings on the guardian or custodian's behalf.

(c)(1) In such circumstances, the division will encourage individuals to become a fully approved resource home.

(2) If a child was IV-E eligible prior to the guardianship or custody order being granted, then the child is eligible for an adoption subsidy.

(3) If a child was non-IV-E eligible prior to the guardianship or custody order being granted, then the child is not eligible for adoption subsidy.

(d) The legal services contract provider will enter into a representation agreement with the guardian or custodian and the division will agree to pay for the associated fees pursuant to the division's contract with the provider for legal services.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-929. Legal custodian petition to adopt a child previously in foster care.

(a) The Family Service Worker will:

(1) Verify that termination of parental rights has occurred;

(2) Request secondary assignment to Resource Worker;

(3) Complete CFS-426: Adoption Packet Checklist for child and provide to Adoption Supervisor within fourteen (14) business days; and

(4) Upon provision of completed CFS-426: Adoption Packet Checklist request

primary assignment be made to Adoption Specialist.

(b) The Resource Worker will:

(1)(A) For custodians who elect to become an open resource home:

(B) Follow 9 CAR § 40-806, resource home assessment process, to open the home as a fully licensed resource home; and

(2) For custodians who do not elect to become an open resource home:

(A) Gather all available documentation and document in provider screens in the Division of Children and Family Services' information management system as appropriate;

(B) Work with the family to obtain background checks; and

(C) Ensure the family is opened as a resource home by working with the division's information management system support staff to complete necessary provider screens (despite gaps in available information).

(c) The Adoption Specialist will follow 9 CAR § 40-926, finalization of an adoption, and 9 CAR § 40-927, postadoption services, with the exception that, rather than working with Office of Chief Counsel for the associated legal proceedings, the Adoption Specialist will make a request to the Adoptions Manager to make a referral to the division's contracted provider for legal services.

(d) The Adoptions Supervisor will:

(1) Review CFS-426: Adoption Packet Checklist to ensure completeness; and

(2) Upon verification of CFS-426: Adoption Packet Checklist, complete primary case assignment to Adoption Specialist.

(e) The Adoption Manager will collaborate with the Program Administrator or designee who oversees the division's contracted provider for legal services.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-930. Adoption subsidy.

(a)(1) The Division of Children and Family Services provides an adoption subsidy as a service to assist in making adoption possible for a child, who, with special needs, might not otherwise be adopted and for whom a family is not readily available.

(2) A subsidy is allocated for the purpose of meeting the needs of the child.

(3) In addition, payments for one-time expenses, known as a nonrecurring adoption subsidy, may be obtained in order to reimburse the family for out-of-pocket preadoptive or finalization expenditures.

(b)(1) A child must be legally free for adoption with parental rights terminated for an adoption subsidy to be put in place.

(2) No payment may be made to parents with respect to any applicable child that:

(A) Is not a citizen or resident of the United States;

(B) Was adopted outside of the United States; or

(C) Was brought into the United States for the purpose of being adopted.

(3) A child that is not a citizen or resident of the United States, was adopted outside the United States, or brought into the United States for the purpose of being adopted, may become eligible for adoption assistance payments if:

(A) The initial adoption of the child by the parents is a failure; and

(B) The child is subsequently placed into foster care.

(c) A child in foster care placed in an adoptive home continues status as a child in foster care until finalization of the adoption and the adoption subsidy is initiated.

(d) Any individual who is adopting or who is considering adopting a child who is in foster care will be notified of their potential eligibility for a Federal Adoption Tax Credit.

(e) The adoptive parents are required to inform the Division of Children and Family Services of circumstances that would make them ineligible for adoption assistance payments or eligible for adoption assistance payments in a different amount.

(f) Adoption subsidies can be funded through federal Title IV-E adoption assistance

or state funds depending on the child's eligibility.

(g) **Federal Title IV-E subsidy.** To be eligible for federal Title IV-E adoption assistance, the child must meet the special needs determination and IV-E eligibility rules.

(h) **Special needs determination.** To be considered a child with special needs, a child must meet the criteria below:

(1) The state has determined the child cannot or should not be returned to the home of his or her parents;

(2)(A) The state has determined that a specific factor or condition, or combination of factors and conditions, make the child more difficult to place for adoption without providing Title IV-E adoption assistance or Title XIX medical assistance.

(B) In Arkansas these factors are:

(i) A Caucasian child nine (9) years of age or older;

(ii) A child of color who is two (2) years of age or older;

(iii) A member of any sibling group being placed together, who share at least one (1) biological parent and who have either lived together or otherwise developed a bond prior to adoptive placement; or

(iv)*(a)* A child with a severe medical or psychological need that requires ongoing rehabilitation or treatment.

(b) Children at high risk for the development of a serious physical, mental, developmental, or emotional condition may also be considered special needs if documentation of the risk is provided by a medical professional specializing in the area of the condition for which the child is considered at risk, including children exposed to or affected by maternal misuse of substances at birth (Garrett's Law).

(c) But no subsidy payment will be made without documentation that the child has developed the actual condition (see 9 CAR § 40-931); and

(3)(A) The state must determine that in each case a reasonable, but unsuccessful, effort to place the child with appropriate parents without providing adoption assistance has been made such as the use of adoption exchanges, referral to

appropriate specialized adoption agencies.

(B) The exception to this requirement is when it would not be in the best interests of the child because of factors such as the existence of significant emotional ties with prospective adoptive parents while in the care of those parents as a foster child or adoption by a relative.

(C)(i) In an effort to find an appropriate adoptive home for a child, and meet the requirement that a reasonable, but unsuccessful, effort be made to place the child without adoption assistance, the Division of Children and Family Services will not unnecessarily lengthen the child's time in foster care in doing so.

(ii) Once it is determined that placement with a certain family is in the child's best interest, the Division of Children and Family Services will continue to work toward adoption finalization.

(D)(i) If it is determined that the child cannot or should not return home and the child meets the special needs definition, then the Adoption Specialist can pose the question of whether the prospective adoptive parents are willing to adopt without assistance.

(ii) If they say they cannot adopt the child without adoption assistance, the requirement for a reasonable, but unsuccessful, effort to place the child without providing adoption assistance will be met.

(E) It must be documented in each child's case record the specific factor or factors that make the child difficult to place and describe the efforts to place the child for adoption without providing assistance.

(i) **Title IV-E eligibility rules.**

(1) Once the above special needs criteria are met, there are six (6) ways by which a child can be eligible for Title IV-E adoption assistance.

(2) The child only needs to qualify in one (1) of the following ways:

(A)(i) The child is AFDC-eligible.

(ii) Adoption assistance eligibility that is based on a child's AFDC eligibility is predicated on a child meeting the criteria both at the time of removal and in the month the adoption petition is initiated.

(iii) At the time adoption proceedings were initiated, the child must have been removed from the home of a specified relative as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of the child.

(iv) For the purpose of adoption assistance, a child must meet the AFDC criteria in the specified relative's home from which he or she is removed.

(v) In addition, the special needs determination must be made prior to finalization of the adoption;

(B)(i) The child is eligible for Supplemental Security Income (SSI) benefits.

(ii) A child is eligible for adoption assistance if, at the time the adoption petition is filed, the child meets the requirements for Title XVI Supplemental Security Income benefits, and prior to the finalization of the adoption is determined by the state to be a child with special needs.

(iii) There are no additional criteria that a child must meet to be eligible for Title IV-E adoption assistance when eligibility is based on a child with special needs meeting Supplemental Security Income requirements.

(iv) Specifically, how a child is removed from his or her home or whether the state has responsibility for the child's placement and care is irrelevant in this situation.

(v) The child's eligibility for Supplemental Security Income benefits must be established no later than at the time the adoption petition is filed;

(C)(i) The child is eligible as a child of a minor parent.

(ii) A child is eligible for Title IV-E adoption assistance in this circumstance if:

(a) The child's parent is in foster care and receiving Title IV-E foster care maintenance payments that cover both the minor parent and the child at the time the adoption petition is initiated; and

(b) Prior to the finalization of the adoption, the child of the minor parent is determined by the state to meet the definition of a child with special needs.

(iii) There is no requirement that a child must have been removed from the home as a result of a judicial determination.

(iv) However, 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;

(D)(i) Age at adoption.

(ii) Beginning January 1, 2018 through June 30, 2024, all children age two (2) or older by the end of that fiscal year are eligible based on age.

(iii) Starting July 1, 2024 all children will be eligible based on age.

(iv) Younger children adopted with their age-eligible siblings are also IV-E eligible;

(E)(i) Length of time in foster care.

(ii) As of October 1, 2009, children with special needs who have been in care for at least sixty (60) consecutive months became eligible for IV-E adoption assistance.

(iii) Siblings of these children will also be eligible (regardless of their length of time in care) if they are adopted with the eligible sibling; and

(F)(i) The child is eligible due to prior Title IV-E adoption assistance eligibility.

(ii) In the situation where a child is adopted and receives Title IV-E adoption assistance, but the adoption later dissolves or the adoptive parents die, a child may continue to be eligible for Title IV-E adoption assistance in a subsequent adoption.

(iii) The only determination that must be made by the state prior to the finalization of the subsequent adoption is whether the child is a child with special needs.

(iv) Need and eligibility factors must not be redetermined when such a child is subsequently adopted because the child is to be treated as though his or her circumstances are the same as those prior to his or her previous adoption.

(v) Since Title IV-E adoption assistance eligibility need not be

reestablished in such subsequent adoptions, the manner of a child's removal from the adoptive home, including whether the child is voluntarily relinquished to an individual or private agency, is irrelevant.

(j) **State subsidy.**

(1) A state funded adoption subsidy may be available to a child who is not IV-E eligible provided that the child is in Department of Human Services custody and meets the special needs definition.

(2)(A) A state legal subsidy may be defined as the Office of Chief Counsel legal services provided for children in department custody.

(B) A legal subsidy does not include the use of a private attorney.

(C) The children are eligible for a legal subsidy whether or not they meet the criteria for special needs and without regard to eligibility for IV-E, state maintenance subsidy, or nonrecurring subsidy.

(D) Adoption assistance payments may be terminated if it is determined that:

(i) The child has attained eighteen (18) years of age;

(ii) The parents are no longer legally responsible for the support of the child; or

(iii) The child is no longer receiving support from the adoptive parents.

(k) **Subsidy amount.**

(1) If eligible, the Division of Children and Family Services will make adoption assistance payments to adoptive parents in amounts so determined through an adoption assistance agreement.

(2) The amount of such payment:

(A) Will take into account the circumstances of the adopting parents and the needs of the child being adopted;

(B) May be adjusted periodically with the concurrence of the adoptive parents to reflect changing circumstances; and

(C) May not exceed the child's foster care maintenance payment that is in

effect at the time a subsidy is approved (if the child with respect to whom the adoption assistance payment is made had been in a resource home).

(3)(A) The standard foster care maintenance board rate scale is found below.

(B) New rates will not be paid until the child reaches the next age range.

Age of Child	**Amount of Monthly Maintenance**
Birth through five (5) years	$451.00
Six (6) through eleven (11) years	$484.00
Twelve (12) through fourteen (14) years	$517.00
Fifteen (15) through seventeen (17) years	$550.00

(4)(A) A request for a larger monthly adoption maintenance subsidy may be made for a child who has received a higher than standard monthly foster care board payment.

(B) A monthly subsidy payment cannot exceed the child's foster care board rate which is in effect at the time a subsidy is approved.

(5)(A) Special board rate formulas and procedures will be used strictly as guides in determining an appropriate nonstandard rate to discuss with the family and to use in negotiating a lower subsidy rate (when appropriate).

(B) No subsidy will exceed four hundred sixty dollars ($460) above the standard board rate for the child's age group.

(C) However, if the child is Supplemental Security Insurance eligible, the rate can go up four hundred and sixty dollars ($460) above the Supplemental Security Insurance rate.

(6)(A) Special subsidies are state funded, and the Adoption Subsidy Coordinator, Adoption Services Unit, will consider the child's eligibility on a case-by-case basis.

(B) The consideration will be based on the information developed during the Adoption Specialist's determination of the child's special needs in relation to

adoption planning.

(C) The adoptive parent's gross income will be considered, as well as other financial resources and health insurance, in determining eligibility for a special subsidy.

(D) For more information, see 9 CAR § 40-931, initial application for adoption subsidy.

(l) **Subsidy denial.**

(1) If any application for an adoption subsidy for a child under eighteen (18) years of age is initially denied, in accordance with federal regulations, the adoptive family may appeal the decision.

(2) The types of situations that would constitute grounds for an appeal include:

(A) Relevant facts regarding the child, the biological family or the child's background were known, but not presented to the adoptive parents prior to the adoption's finalization;

(B) Any subsidy decision which the adoptive parents deem adverse to the child;

(C) Erroneous determination by the Division of Children and Family Services that a child is ineligible for adoption assistance; and

(D) Failure by the Division of Children and Family Services to advise adoptive parents of the availability of adoption assistance.

(3)(A) If an appeal is upheld, the child may be eligible for a federal (Title IV-E) or state subsidized adoption.

(B) The effective date of a federal (Title IV-E) retroactive subsidy payment will be the date of final order issued by the administrative law judge.

(m) **Subsidy extension.**

(1)(A) Adoption assistance payments may be extended to twenty-one (21) years of age if the child has a mental or physical disability which warrants continuation and a federally-funded subsidy or state maintenance is received.

(B) If the state determines the youth has a mental or physical handicap

that warrants the continuation of the adoption subsidy assistance up to twenty-one (21) years of age, that youth is not subject to the education and employment requirements listed below for youth eighteen (18) through twenty-one (21) years of age.

(2)(A) Requests for extension of adoption subsidy agreements up to twenty-one (21) years of age, due to a mental or physical handicap, must be submitted by the adoptive parent or parents to the Adoption Manager or designee at least three (3) months prior to the termination of the current adoption subsidy agreement.

(B) Such extension requests received after this timeframe, to include after the youth has turned eighteen (18) years of age but not yet reached twenty-one (21) years of age, may still be considered.

(C) However, any subsidy agreement that is extended past the age of eighteen (18) due to a mental or physical handicap will take effect on the date of the new subsidy agreement (reflecting that the extension is signed).

(D) Any monthly subsidy payments that were not made between the end date of the initial subsidy agreement and the date of the new subsidy agreement, reflecting a subsidy extension past eighteen (18) years of age, will not be made retroactively.

(3) In addition, if the child was adopted at sixteen (16) years of age or older, the adoption subsidy may be extended until twenty-one (21) years of age under the following circumstances:

(A) The child is completing secondary education or a program leading to an equivalent credential;

(B) The child is enrolled in an institution which provides postsecondary or vocational education;

(C) The child is participating in a program or activity designed to promote, or remove barriers to, employment;

(D) The child is employed for at least eighty (80) hours per month; or

(E) The child is incapable of doing any of the above described activities due to a medical condition.

(4)(A) The Division of Children and Family Services will ensure that the child

meets these employment or education requirements.

(B) If a child is incapable of meeting the above referenced education or employment requirements due to a medical condition, the reason for which the child is incapable of meeting the education or employment requirements must be documented by a medical professional and updated annually until the child reaches twenty-one (21) years of age.

(n) **Adoption assistance agreement.**

(1) An adoption assistance agreement, which is a written binding agreement between the adoptive parents, the Division of Children and Family Services, and other relevant agencies, must be signed and in effect at the time of or prior to the final decree of adoption.

(2) The adoption assistance agreement must:

(A) Be signed by the adoptive parents and the Division of Children and Family Services, and be in effect before adoption assistance payments are made under Title IV-E, but no later than the finalization of the adoption;

(B) Specify the duration of the agreement;

(C) Specify the amount of the adoption assistance payment (if any) and the nature and amount of any other payments, services, and assistance to be provided (including nonrecurring adoption expenses in agreements that became effective on or after January 1, 1987, for expenditures incurred by the parents on or after that date);

(D) Specify the child's eligibility for Title XIX and Title XX;

(E) Specify, with respect to agreements entered into on or after October 1, 1983, that the agreement remains in effect regardless of the state of residence of the adoptive parents; and

(F) Contain provisions for the protection of the interests of the child in case the adoptive parents and child should move to another state while the agreement is in effect, or for agreements entered on or after October 1, 1983 (if needed).

(3) If the service specified in the agreement is not available in the new state of residence, the state making the original assistance payment remains financially responsible for providing the specified service or services.

(4)(A) Any subsidy requests that are denied may undergo the appellate process to be upheld or reversed.

(B) For adoption subsidies that are requested and approved after adoption finalization has occurred, the adoption assistance agreement (and, therefore, subsidy payments) will go into effect based on the adoption subsidy application approval date (i.e., not the adoption finalization date).

(C) This includes both IV-E and non-IV-E subsidies.

(5) Any adoption assistance agreement put in place after finalization of an adoption must:

(A) Be signed by the adoptive parents and the Division of Children and Family Services and be in effect before adoption assistance payments are made under Title IV-E;

(B) Specify the duration of the agreement;

(C) Specify the amount of the adoption assistance payment (if any) and the nature and amount of any other payments, services, and assistance to be provided (including nonrecurring adoption expenses in agreements that became effective on or after January 1, 1987, for expenditures incurred by the parents on or after that date);

(D) Specify the child's eligibility for Title XIX and Title XX;

(E) Specify, with respect to agreements entered into on or after October 1, 1983, that the agreement remains in effect regardless of the state of residence of the adoptive parents; and

(F) Contain provisions for the protection of the interests of the child in case the adoptive parents and child should move to another state while the agreement is in effect and for agreements entered on or after October 1, 1983, if needed.

(o) **Status of subsidy when a child reenters foster care.**

(1) When a child with an approved adoption subsidy enters foster care, adoption subsidy payments will continue to the adoptive parents.

(2) The Division of Children and Family Services will work with Office of Chief Counsel to identify parents receiving adoption subsidy payments to request an order of child support for the subsidy amount.

(3) Child support will continue, as applicable, until the child is reunified in the family home or termination of parental rights occurs.

(4) If termination of parental rights occur, adoption subsidy payments will be terminated.

(p) **Subsidy redeterminations.**

(1) The federal Title IV-E adoption assistance program does not require redeterminations of a child's eligibility.

(2) Although the Title XIX Medicaid program and the programs that, in part, may qualify a child initially for adoption assistance, such as AFDC and SSI, require redeterminations, they are unnecessary for the purpose of maintaining a child's eligibility for Title IV-E adoption assistance.

(q) **Subsidy terminations.**

(1) Once a child has been determined eligible and is receiving Title IV-E adoption assistance, the state may terminate the assistance only under the following circumstances:

(A) Upon the adoptive parent's or parents' request;

(B) Upon the child's death;

(C) Upon the death of the adoptive parents or parents of the child (in a two-parent family, this means both parents);

(D) At the cessation of legal responsibility of the adoptive parent or parents for the child;

(E) If the Division of Children and Family Services determines that the child is no longer receiving support from the adoptive parent or parents; or

(F) When the child reaches the age of eighteen (18) unless:

(i) The child's subsidy was extended (per the adoption subsidy agreement) past eighteen (18) years of age, due to a mental or physical disability which warranted continuation of a federally funded subsidy or state maintenance to be received, in which case the adoption subsidy would be terminated when the child attains twenty-one (21) years of age; or

(ii) The child's subsidy was extended past eighteen (18) years of age

(per the adoption subsidy agreement) because the child was adopted at sixteen (16) years of age or older, in which case the child's subsidy would be terminated when the child attains twenty-one (21) years of age, provided that the child also met one (1) of the following circumstances from eighteen (18) years of age through twenty-one (21) years of age:

(a) The child is completing secondary education or a program leading to an equivalent credential;

(b) The child is enrolled in an institution which provides postsecondary or vocational education;

(c) The child is participating in a program or activity designed to promote, or remove barriers to, employment;

(d) The child is employed for at least eighty (80) hours per month; or

(e) The child is incapable of doing any of the above described activities due to a medical condition.

(2)(A) A fourteen-calendar-day written notice will be sent to the adoptive parent or parents informing them of the Division of Children and Family Services' intent to terminate the subsidy.

(B) The notice will also inform the parent or parents of their right to appeal the decision and how to request an administrative hearing in order to appeal.

(C) The notice will be sent via process server or via certified mail, restricted delivery with a returned receipt requested.

(r) **Medical coverage.**

(1)(A) The Division of Children and Family Services will ensure health insurance coverage for any child determined to be a child with special needs for whom there is an adoption subsidy agreement in effect.

(B) Federal Title IV-E Medicaid will be utilized to provide medical coverage for a Title IV-E eligible child.

(C) Medical coverage, for a non-Title IV-E eligible child who has a special need for medical or rehabilitative care, may be provided under the Medicaid category

Non-Title IV-E Special Needs Adoptive Child, if the child is eligible for state maintenance subsidy and meets specified Medicaid eligibility requirements (see Medical Services Policy 6590.2 Eligibility Requirements).

(2)(A) IV-E eligible children, who are adopted on January 1, 2019, and thereafter, are eligible for Medicaid coverage regardless of whether or not IV-E adoption subsidy payments are actually made for the child.

(B) Children approved for deferred adoption subsidy payments will qualify, as applicable, for Medicaid coverage to begin when subsidy eligibility begins.

(3) If the child does not qualify for Medicaid under federal Title IV-E or Non-Title IV-E Special Needs Adoptive coverage, the family may make application for Medicaid under a different category.

(4)(A) Medicaid coverage associated with the adoption subsidy will cease when the subsidy case is closed.

(B) The child may qualify for other categories of Medicaid if certain eligibility criteria are met.

(5)(A) However, once the adoption subsidy case is closed, it is the responsibility of the child, or the child's family, to apply for other categories of Medicaid at their local Department of Human Services county office (via the Division of County Operations).

(B) Medicaid coverage through the local department county office is not guaranteed.

(6)(A) Any eligible child for whom there is an adoption assistance agreement in effect is deemed to be a dependent child and is deemed to be a recipient of AFDC (per AFDC requirements in effect July 16, 1996).

(B) Any child of such eligible child will be eligible for such services.

(7)(A) The Division of Children and Family Services shall access resources as necessary in Arkansas, the region, and nation to find adoptive families for children with special needs.

(B) When a child with an approved adoption subsidy enters foster care, adoption subsidy payments will continue to the adoptive parents.

(C) The Division of Children and Family Services will work with Office of Chief Counsel to identify parents receiving adoption subsidy payments to request an order of child support for the subsidy amount.

(D) Child support will continue, as applicable, until the child is reunified in the family home or termination of parental rights occurs.

(E) If termination of parental rights occur, adoption subsidy payments will be terminated.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "AFDC" means Aid to Families with Dependent Children.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"03/2023"

9 CAR § 40-931. Initial application for adoption subsidy.

(a) The Family's Adoption Specialist will:

(1) Follow the same subsidy-related policy and procedures, including subsidies for nonrecurring legal expenses, regardless if the adoption is being handled in-state or out-of-state;

(2) Ensure close coordination with the other state's adoption worker, if applicable;

(3) Determine that the child has a special need in relation to adoption planning, is between the age of birth to eighteen (18) years of age, is in the custody of the Department of Human Services (for state subsidy only), and is legally free for adoption;

(4)(A) Determine if the child is eligible for federal IV-E adoption maintenance subsidy first.

(B) If ineligible for Title IV-E, determine if the child is eligible for state funded adoption maintenance subsidy;

(5) Determine that a reasonable, but unsuccessful, effort has been made to place the child without providing adoption subsidy;

(6) Document in each child's case record the specific factor or factors that make the child difficult to place and describe the efforts to place the child for adoption without providing assistance;

(7) Determine what type of adoption subsidies are needed, and complete all application procedures by the fourth month of placement;

(8) Review and sign the CFS-425: Application for Adoption Subsidy after the adoptive parent completes it;

(9) Print Title IV-E verification of eligibility from the Division of Children and Family Services' information management system;

(10)(A) Be clear in the discussion with the family that they will only be:

(i) Screening for a determination of special needs, subsidy eligibility; and

(ii) Making a recommendation to the adoption services unit.

(B) Under no circumstances will the Adoption Specialist give the adoptive family the subsidy determination prior to receipt of approval from the Adoption Services Unit.

(C) The Adoption Specialist must also explore other resources and assistance that may be available for the child and adoptive family when screening for a subsidy;

(11) Complete the "CFS-427: Determination of Eligibility for Adoption Subsidy" and attach the following to the CFS-427:

(A) Verification of the costs for a private attorney to finalize an adoption whether in-state or out-of-state, if applicable; and

(B) Verification of court costs to finalize an adoption, if applicable;

(12) Complete the following:

(A)(i) Special board rate request to have a professional verify the child's

complete medical condition, including dental, psychological, etc., as well as the diagnosis, prognosis, and costs of treatment for one (1) year if a special subsidy is requested.

(ii) Children at high risk for the development of a serious physical, mental, developmental, or emotional condition may be considered special needs if documentation of the risk is provided by a medical professional specializing in the area of the condition for which the child is considered at risk.

(iii) However, no subsidy payment will be made without documentation that the child has developed the actual condition.

(iv) In order to be eligible for special needs subsidy based on developmental delay, documentation must be provided, current within six (6) months, attesting to the fact that the child has a delay of twenty-four percent (24%) or more in two (2) major developmental categories;

(B) Statement that lists the child's source of financial resources and amount, other than foster care board payment, if applicable;

(C)(i) Verification from the appropriate agency which explains the child's eligibility for financial benefits (Supplemental Security Insurance, other types of Social Security benefits, United States Department of Veterans Affairs, etc.) once the adoption is finalized, if applicable.

(ii) Provide the agency with the amount of the adoptive parent's income in order that a statement can be prepared.

(iii) Once a child has been determined eligible for a federal subsidy, the adoptive parents cannot be rejected for adoption assistance nor can they have payments reduced without their agreement, as a result of:

(a) Their income;

(b) Their resources; or

(c) The child's resources; and

(D)(i) Verification from Children's Medical Services (CMS) which explains the child's eligibility for services once the adoption is finalized, if applicable.

(ii) Provide CMS with the amount of the adoptive parent's income in

order that a statement can be prepared;

(13) Inform the adoptive parents that subsidy payments may continue until the end of the month of the child's eighteenth birthday, or by the end of the month of the child's twenty-first birthday if he or she meets one (1) of the established criteria described in the "Subsidy Extension" policy subsection above and the extension is requested by the adoptive parent as described in the "Subsidy Extension" policy subsection above;

(14) Provide the following documentation with the initial adoption subsidy application packet:

(A) Emergency petition;

(B) Emergency order or other initial custody court order;

(C) Order for termination of parental rights with power to consent to adoption;

(D) A copy of the CMA worksheet in CHRIS or, if applicable, award letter for Supplemental Security Income; and

(E) A copy of the approved selection form, as applicable;

(15) Prepare a narrative entitled "Subsidy Family Profile" about the adoptive family to include:

(A) Type of adoption (foster parent, nonfoster parent, relative, or fictive kin);

(B) Type of subsidy (maintenance, special, nonrecurring, non-IV-E Medicaid);

(C) Funding source (federal or state);

(D) Child to receive subsidy (first name, age, race, developmental information, description of special needs, problems, limitation, reasons for being in out-of-home placement, and brief description of out-of-home placement history);

(E) Adoptive father (name, age, education, employment, and health);

(F) Adoptive mother (name, age, education, employment, and health);

(G) Other children in family (adopted, birth, custody, out-of-home placement, name, age, education, and health);

(H) Others in household (explain if applicable);

(I) Marriage (length and comments about the quality of the relationship);

(J) Housing (brief description);

(K) Income/resources (sources and amounts, health insurance coverage, etc.);

(L) Exploration of other resources and assistance that may be available for the child and adoptive family when screening for a subsidy;

(M) Family and adoptive child relationship (description to include strengths and challenges);

(N) Reason for adoption subsidy (explain reason child needs adoption subsidy and reason for the adoptive parent requesting it);

(O) Subsidy request (maintenance costs per month and for not more than a year), special subsidy type of service and costs for not more than a year, legal assistance, if the Office of Chief Counsel attorney is requested to finalize the adoption, court costs, etc., other subsidy requests and costs, etc.; and

(P) Recommendation to approve or deny;

(16) Submit the completed packet to the Adoption Supervisor for review and comment; and

(17) Upon completion of supervisory review, send completed forms, narrative, documents, and other attachments to the Adoption Subsidy Coordinator.

(b) The Adoptive Subsidy Coordinator will:

(1)(A) Assess all submitted forms and documentation, make a recommendation to approve or deny the adoption subsidy application, and provide written notification to the Adoption Specialist of the recommendation within three (3) working days of receiving the initial application packet from the Adoption Specialist.

(B) Contact the Adoption Specialist if additional information or forms are needed;

(2) Prepare the "CFS-428: Adoption Assistance Agreement" and route it to the Adoption Manager for approval, then send the CFS-428 to the Director of the Division of Children and Family Services or designee for signature;

(3) Send the signed CFS-428 to the Adoption Specialist with written instructions;

(4) Notify the adoptive parent in writing if the application is denied and explain the:

(A) Reason;

(B) Internal review procedures; and

(C) Administrative fair hearing procedures;

(5) Send a copy of the notification of denial to the Adoption Specialist; and

(6) Scan all subsidy packets into Edoctus.

(c) Upon receipt of approval of the adoption subsidy, the Adoption Specialist will:

(1) Meet with the adoptive parent to explain an approval;

(2) Review the "CFS-428: Adoption Assistance Agreement";

(3) Secure the adoptive parent's signature on the CFS-428 within five (5) working days from receipt of the agreement or prior to finalization;

(4) Send the Adoption Subsidy Coordinator and adoptive parent a copy of the signed CFS-428 within three (3) working days upon receipt;

(5) Contact the Adoption Subsidy Coordinator in writing within three (3) working days from the meeting if the adoptive parent has a disagreement with the contents of the CFS-428;

(6) Meet with the adoptive parent to explain a denial, review the decision, and explain internal review procedures within ten (10) working days from receipt of written notification to deny; and

(7) Send a copy of the adoption petition and final decree of adoption to the Adoption Subsidy Coordinator within five (5) working days upon receipt.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-932. Title IV-E redetermination.

(a)(1) The federal Title IV-E adoption assistance program does not require redeterminations of a child's eligibility.

(2) Although the Title XIX Medicaid program and the programs that, in part, may qualify a child initially for adoption assistance, such as AFDC and Supplemental Security Insurance, require redeterminations, they are unnecessary for the purpose of maintaining a child's eligibility for Title IV-E adoption assistance.

(3) Once a child has been determined eligible and is receiving Title IV-E adoption assistance, the state may terminate the assistance only under the following circumstances:

(A) Upon the adoptive parent's or parents' request;

(B) Upon the child's death;

(C)(i) Upon the death of the adoptive parent or parents of the child.

(ii) In a two-parent family, this means both parents;

(D) At the cessation of legal responsibility of the adoptive parent or parents for the child;

(E) If the Division of Children and Family Services determines that the child is no longer receiving support from the adoptive parent or parents; or

(F) When the child reaches eighteen (18) years of age unless:

(i) The child's subsidy was extended (per the adoption subsidy agreement) past eighteen (18) years of age, due to a mental or physical disability which warranted continuation of a federally funded subsidy or state maintenance to be received, in which case the adoption subsidy would be terminated when the child attains twenty-one (21) years of age; or

(ii) The child's subsidy was extended past eighteen (18) years of age (per the adoption subsidy agreement) because the child was adopted at sixteen (16) years of age or older, in which case the child's subsidy would be terminated when the child attains twenty-one (21) years of age, provided that the child also met one (1) of

the following circumstances from eighteen (18) years of age through twenty-one (21) years of age:

(a) The child is completing secondary education or a program leading to an equivalent credential;

(b) The child is enrolled in an institution which provides postsecondary or vocational education;

(c) The child is participating in a program or activity designed to promote, or remove barriers to, employment;

(d) The child is employed for at least eighty (80) hours per month; or

(e) The child is incapable of doing any of the above described activities due to a medical condition.

(b)(1) The division will ensure that the child meets these employment or education requirements.

(2) If a child is incapable of meeting the above referenced education or employment requirements due to a medical condition, the reason for which the child is incapable of meeting the education or employment requirements must be documented by a medical professional and updated annually until the child reaches twenty-one (21) years of age.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-933. Criteria for Supplemental Security Insurance-eligible private agency and independent adoptions.

(a) A child who is SSI eligible and is part of an independent adoption (i.e., not in

the custody of a public or private agency) is eligible for a Title IV-E subsidy.

(b)(1) If a child received Title IV-E adoption assistance in a previous adoption that dissolved or in which the adoptive parents died, the child is eligible for Title IV-E assistance when he or she is subsequently adopted.

(2)(A) See adoption subsidy, 9 CAR § 40-930.

(B) The Adoption Subsidy Coordinator must be contacted for an application packet.

(c) The Adoption Subsidy Coordinator will:

(1) Accept and review referrals for independent adoption and private agency subsidy applications;

(2) Assess all submitted forms and documentation, make a recommendation to approve or deny the adoption subsidy application, and provide written notification to the applicant, the person who arranged the independent adoption, or the private agency representative of the decision, within fifteen (15) working days of receiving the initial application packet from the Adoption Specialist;

(3) Contact the applicant, the person who arranged the independent adoption, or private agency representative, if additional information or forms are needed;

(4) Prepare the CFS-428: Adoption Assistance Agreement if it is recommended the adoption subsidy application be approved, and route the CFS-428 to the Adoption Manager for approval, then send the CFS-428 to the Director of the Division of Children and Family Services or designee for signature;

(5) Send signed CFS-428: Adoption Assistance Agreement to the applicant and private agency representative, if applicable, with written instructions;

(6) Notify the adoptive parent in writing if the application is denied, to explain the reason for the denial, the internal review, and the administrative fair hearing procedures; and

(7) In CHRIS:

(A) Enter the adoptive parents and adoptive child as clients in the newly opened adoption case;

(B) Complete the adoptive child’s characteristic screen to identify the

special needs; and

(C) Complete the adoption screens (general information, affidavit of disclosure, and subsidy) and request the approval of the adoption subsidy.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-934. Amendment to an adoption subsidy.

The Adoption Support Specialist will:

(1) Follow the same subsidy-related policy and procedures, regardless if the adoption is being handled in-state or out-of-state;

(2) Ensure close coordination with the other state's adoption worker, if applicable;

(3) Amend a subsidy if there is documentation that an "at risk" child has developed a serious physical, mental, or emotional condition;

(4)(A) Determine with adoptive parent if an amendment to the existing adoption subsidy is needed.

(B) An amendment may be requested at any time.

(C) The adoptive family must consent to any subsidy amendment (Title IV-E only);

(5) Determine if a change in subsidy payee is appropriate, based on documentation of divorce and custody, by:

(A) Reviewing the divorce decree and custody order to determine which parent was granted full custody of the child;

(B) Ensuring that the parent awarded full custody of the child in the divorce decree or custody order signed the original adoption subsidy; and

(C) Rerouting the subsidy payment to the adoptive parent only after verification of steps one (1) and two (2) above;

(6)(A) Determine if there has been a significant change in type of condition of the child to warrant the amendment of a federally funded subsidy.

(B) A state may renegotiate an adoption assistance agreement if the adoptive parents request an increase in payment due to a change in type of condition of the child.

(C) A higher foster care rate would have been paid on behalf of the child if the child had still been in foster care.

(D) Review and sign the "CFS-425: Application for Adoption" after the adoptive parent completes it;

(7)(A) Carefully review all requests for increases in payment for state funded subsidies and special subsidies.

(B) As state dollars are limited, an exploration of other resources is required and must be documented in the narrative when submitting an amendment request.

(C) The Director of the Division of Children and Family Services can review extraordinary circumstances at his or her discretion;

(8) Complete the "CFS-427: Determination of Eligibility for Adoption Assistance" if a special subsidy is requested;

(9) Complete a narrative to address the type of subsidy needed, the source of funding, the reason for the:

(A) Subsidy;

(B) Costs; and

(C) Recommendation;

(10)(A) Send all requests, the forms, narrative, and any other documents to the Adoption Subsidy Coordinator within twenty (20) working days from the initial contact with the adoptive parent.

(B) For requests of special board rate increases, forward completed packets to the Adoption Subsidy Coordinator for review and comment.

(C) Communicate with the adoptive parent to explain an approval, to review the "CFS-428: Adoption Assistance" and to secure the adoptive parent's signature on the CFS-428 within ten (10) working days from receipt of the agreement;

(11) Send the Adoption Subsidy Coordinator and adoptive parent a copy of the signed CFS-428;

(12) Send the Adoption Subsidy Coordinator a written notification within three (3) working days from the meeting with the adoptive parent to explain a disagreement with the contents of the CFS-428;

(13) Meet with the adoptive parent or parents to explain a denial, review the decision, and explain internal review procedures within ten (10) working days from receipt of the written notification to deny;

(14)(A) In the Division of Children and Family Services' information management system, if subsidy amendment is approved, change the subsidy ending date on the adoption subsidy screen to stop the existing adoption subsidy.

(B) Then, click clear and enter the new amended subsidy with the new beginning and ending dates and the subsidy amount.

(C) Request the approval for the amended subsidy amount;

(15) Prepare the CFS-428 if the adoption subsidy application is approved, and route the CFS- 428 to the Adoption Manager for approval, then send the CFS-428 to the director or designee for signature; and

(16) Notify the adoptive parent in writing if the application is denied, to explain the:

(A) Reason for the denial;

(B) Internal review; and

(C) Administrative Fair Hearing procedures.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-935. Request for continuation of federal and state-funded adoption maintenance subsidy after age 18.

(a)(1) In some cases, a federal adoption maintenance subsidy or state-funded maintenance subsidy may be continued for adoptees eighteen (18) to twenty-one (21) years of age.

(2)(A) Medicaid, however, cannot be extended past eighteen (18) years of age for state-funded subsidies.

(B) While the foster care Medicaid cannot be extended beyond the month the child turns eighteen (18) years of age, the family may apply for another type of Medicaid at their local county office via the Division of County Operations.

(3) Medicaid coverage through the local Department of Human Services county office is not guaranteed.

(b) If the adoptive parent requests that the adoption subsidy be continued past the child's eighteenth birthday, the following criteria must be met:

(1) The adoptive parent must be receiving a federal or state-funded adoption maintenance subsidy prior to the child's eighteenth birthday;

(2) The adoptive parent must make a formal written request of the Division of Children and Family Services Adoption Support Specialist to continue the subsidy and provide proof that the child:

(A) Has a mental or physical disability which warrants continuation; or

(B) Was adopted at sixteen (16) years of age or older and is:

(i) Completing secondary education or a program leading to an equivalent credential;

(ii) Enrolled in an institution which provides postsecondary or vocational education;

(iii) Participating in a program or activity designed to promote or remove barriers to employment;

(iv) Employed for at least eighty (80) hours per month; or

(v) Incapable of doing any of the above described activities due to a medical condition.

(c)(1) The Division of Children and Family Services will ensure that the child meets these employment or education requirements.

(2) If a child is incapable of meeting the above referenced education or employment requirements due to a medical condition, the reason for which the child is incapable of meeting the education or employment requirements must be documented by a medical professional and updated annually until the child reaches twenty-one (21) years of age.

(d) The Adoption Support Specialist will:

(1) Include the above documentation and recommend whether the adoption subsidy should be continued past the child's eighteenth birthday;

(2) If the adoption subsidy is approved to continue past the child's eighteenth birthday:

(A) Prepare the CFS-428-A: Adoption Assistance Agreement for State Funded Payments or CFS-428-B: Adoption Assistance Agreement for Federal IV-E Funded Assistance, as appropriate;

(B) Route the CFS-428-A: Adoption Assistance Agreement for State Funded Payments or CFS-428-B: Adoption Assistance Agreement for Federal IV-E Funded Assistance, as appropriate, to the Adoption Services Unit Manager for review; and

(C) If the Adoption Services Unit Manager and Director of the Division of Children and Family Services approve the CFS-428-A or CFS-428-B as appropriate, change the subsidy ending date on the adoption subsidy screen in the Division of Children and Family Services' information management system to continue subsidy past the child's eighteenth birthday;

(3) If the adoption subsidy is not approved to continue past the child's eighteenth birthday by either the Adoption Support Specialist, Adoption Manager, or director or designee:

(A) Notify the adoptive parent in writing and explain the reason for denial; and

(B) Document the denial in CHRIS.

(e) The Adoption Manager will:

(1) Approve or deny the "CFS-428-A: Adoption Assistance Agreement for State Funded Payments" or "CFS-428-B: Adoption Assistance Agreement for Federal IV-E Funded Assistance", as appropriate;

(2) If the Adoption Assistance Agreement is approved, send to the director or designee for signature; and

(3) If the Adoption Assistance Agreement is denied, notify the Adoption Support Specialist and explain the reason for denial.

(f) The director or designee will:

(1) Approve or deny the CFS-428-A or CFS-428-B, as appropriate; and

(2) Return the CFS-428-A or CFS-428-B, as appropriate, to the Adoption Manager.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

01/2021

9 CAR § 40-936. Interstate Compact on Adoption and Medical Assistance (ICAMA).

(a) A child who is receiving Medicaid as a result of an adoption subsidy may continue to receive the subsidy if the child moves to or from another state.

(b) The Adoption Support Specialist will:

(1) Contact the ICAMA Coordinator or refer an adoptive parent to the ICAMA Coordinator in the Division of Children and Family Services Adoption Services Unit; and

(2) Provide the ICAMA Coordinator with the adoptive family's new address, phone number, and the effective date of the move.

(c) The ICAMA Coordinator will:

(1)(A) Complete the ICAMA forms in relation to a child who is moving from the state and forward the forms to the new state of residence.

(B) Forward the following:

(i) Form 6.01 (Notice of Medicaid Eligibility/Case Activation);

(ii) Form 6.02 (Notice of Action); and

(iii) Form 6.03 (Change in Child/Family Status), if applicable; and

(2) Forward completed ICAMA forms to the Eligibility Unit in relation to a child who moves into the state:

(A) Form 6.01 or a COBRA letter; and

(B) Copy of the Adoption Subsidy Agreement.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-937. Payment for nonrecurring adoption expenses and special subsidy.

(a) The Adoption Specialist will:

(1)(A) Submit a billing packet to the Adoption Subsidy Coordinator for nonrecurring adoption expenses within sixty (60) days after the finalization of the adoption.

(B) Nonrecurring adoption expenses shall not exceed a total of one thousand five hundred dollars ($1,500);

(2) For nontravel related expenses, the packet will include: the DHS-1914,

original invoice, a copy of the CFS-428-A: Adoption Assistance Agreement for State Funded Subsidy Payments or CFS-428-B: Adoption Assistance Agreement for Federal IV-E Funded Assistance, as applicable, and final adoption decree;

(3) For travel-related expenses, the packet will include:

(A) TR-1;

(B) Receipts;

(C) A copy of the 428-A: Adoption Assistance Agreement for State Funded Subsidy Payments or CFS-428-B: Adoption Assistance Agreement for Federal IV-E Funded Assistance; and

(D) The final adoption decree; and

(4) For payment of a special subsidy, the packet will include:

(A) DHS-1914;

(B) Original invoice;

(C) Copy of the 428-A: Adoption Assistance Agreement for State Funded Subsidy Payments or CFS-428-B: Adoption Assistance Agreement for Federal IV-E Funded Assistance; and

(D) The final adoption decree.

(b) The Adoption Subsidy Coordinator will review, code, and forward each completed billing packet within ten (10) business days and forward to the Adoptions Manager for approval.

(c) The Adoptions Manager will forward the approved packet to the office of finance for payment within ten (10) working days of receipt from the subsidy coordinator.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-938. Termination of adoption subsidy.

(a) The Family Service Worker will:

(1) In the event a child with an adoption subsidy enters foster care:

(A) Contact the Office of Chief Counsel and discuss a petition for child support in the amount of the full adoption subsidy; and

(B) Explain to adoptive parents that any monies received by them on behalf of the child should be maintained by the adoptive parents until the issue is resolved by the Office of Child Support Enforcement; and

(2) If termination of parental rights occurs for a child whose parents are receiving an adoption subsidy:

(A) Within five (5) business days, notify the Adoption Support Specialist that termination of parental rights has occurred for a child whose adoptive parents were receiving adoption subsidy payments; and

(B) Provide a copy of the order terminating parental rights to the Adoption Support Specialist within ten (10) business days of receipt of the signed order.

(b) The Adoption Specialist will:

(1) Assess any change in the adoptive family's circumstances which would warrant termination of the adoption subsidy;

(2) Determine if termination of the adoption subsidy is necessary;

(3) Conduct a staffing with the Adoption Manager or designee; and

(4) Provide written notification to the adoptive parent to explain the reason for the termination of the adoption subsidy and the internal review procedures.

(c) The Adoption Support Specialist will:

(1)(A) Upon receipt of the copy of the court order terminating parental rights or other documentation indicating that the subsidy must be terminated as prescribed in the adoption assistant agreement, send written notice to the adoptive parent or parents informing them of the Division of Children and Family Services intent to terminate the subsidy fourteen (14) calendar days from receipt of the notice.

(B) The notice will also inform the parent or parents of their right to

appeal the termination and how to request an administrative hearing for such an appeal.

(C) The notice will be sent via process server or via certified mail, restricted delivery with a returned receipt requested;

(2) In the division's information management system:

(A) If adoption subsidy is terminated, change the subsidy ending date on the adoption subsidy screen to stop the existing adoption subsidy;

(B) If there are other adoptive siblings with existing adoption subsidies, end-date the adoptive child's involvement in the case by selecting the appropriate reason on the child's general information screen;

(C) If there are no other adoptive siblings with existing adoption subsidies, close the adoption case on the case summary screen selecting the appropriate reason; and

(D) Upon receipt of an order terminating parental rights, end date the subsidy on the adoption subsidy screen and close the adoption case on the case summary screen selecting the appropriate reason.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-939. Mutual consent voluntary adoption registry.

(a)(1) Some adults who were adopted as children and some birth parents who voluntarily or involuntarily relinquished a child for adoption, as well as relatives within the second degree to the adoptee, may wish to be identified to each other.

(2) There are other adult adoptees, birth parent or parents, and/or relatives to the second degree of the adoptee who may be unwilling to be identified.

(3) Further, some adult adoptees, birth parent or parents of the adoptee, adoptive parent or parents or, in the event of an adoptive parents' death, guardians of the adoptee, may wish to obtain nonidentifying information pertaining to the birth family.

(b)(1) In order to protect the privacy of those who choose not to be identified and to attempt to meet the needs of those who wish to be identified, as allowed by state and federal law, the Adoption Services Unit administers the Mutual Consent Voluntary Adoption Registry in accordance with Acts 1985, No. 957 and Acts 1987, No. 1060.

(2) The Division of Children and Family Services will keep records of every adult adoptee and birth parent reunited through the use of the Mutual Consent Voluntary Adoption Registry.

(c) Arkansas Code § 9-9-505 requires compilations of nonidentifying histories of adoptions be available upon request throughout the time the agency is required to maintain records to the following persons only:

(1) Adoptive parents of the child or, in the event of death of the adoptive parents, the child's guardian;

(2) Adoptee;

(3) In the event of the death of the adoptee, the adoptee's children, the adoptee's widow or widower, or the guardian of any child of the adoptee;

(4) The birth parent of the adoptee; or

(5) Any child welfare agency having custody of the adoptee.

(d) Any additional nonidentifying information which may have been added regarding health, genetic, or social history (excluding information identifying any birth parent, member of a birth parent's family, or any other adoptees for the adoptive parent) will be made available only to the persons listed above.

(e)(1) Any affidavits filed for placements on the registry and any other information collected shall be retained for ninety-nine (99) years following the date of registration.

(2) Any qualified person may choose to remove his or her name from the registry at any time by filing a notarized affidavit with the registry.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-940. Mutual consent voluntary adoption registry and related services.

(a) The Registry Administrator will:

(1) Prepare forms to be shared with administrators of other agencies when an applicant identifies another agency as the agency having completed the adoption;

(2) Establish office procedures which will ensure the confidentiality of:

(A) The registry;

(B) Its records; and

(C) Identifying information;

(3) Ensure that information contained in the registry or obtained by registry staff consists of nonidentifying information only;

(4) Send information packets containing registration requirements, procedures, and an affidavit to any person inquiring about registration;

(5) Access the agency's closed adoption records and court records (limited to the act of verifying a registry match or for compilation of nonidentifying information);

(6) Collect fees for registration services and accept affidavits for registration;

(7) Provide written notification to qualified registrants as to the status of the initial search of all registrants who wish to be identified;

(8) Send notification to match registrants by certified mail;

(9) Determine if nonidentifying information is available and if the registrant is eligible to receive it;

(10) Provide nonidentiying genetic, health, and social history of the adoptee in the form of a written adoption summary;

(11) Mail nonidentifying written summary of information to the registrant by certified mail;

(12) Maintain copies of nonidentifying information in a secured location;

(13) Keep records of every adult adoptee and birth parent reunited through the use of the Mutual Consent Voluntary Adoption Registry;

(14)(A) Provide a deidentified copy of the foster care record to the adoptee upon request.

(B) Deidentify the names of any reporters of child abuse and/or neglect; and

(15)(A) Arrange for an adoptee to review his or her foster care record upon request.

(B) This access is not available to adoptees who were placed as infants for the sole purpose of adoption.

(b) The Adoption Specialist will:

(1) Refer any person inquiring about the registry to the Registry Administrator, Adoption Services Unit; and

(2) Provide a minimum of no less than one (1) hour of counseling to registry applicants for receipt of identifying information and sign the affidavit to verify the service.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2021"

9 CAR § 40-941. International adoptions.

(a) The Adoption Services Unit shall provide assistance with intercountry adoptions.

(b) However, federal IV-E funds shall not be used to support intercountry

adoptions.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2010"

9 CAR § 40-942. International adoptions.

(a) The Adoptions Manager or designee will:

(1) Respond to inquiries/referrals about international adoptions;

(2) Provide list of licensed private adoption agencies who will complete adoption assessments for intercountry adoptions;

(3)(A) Determine if an adoption assessment prepared by a qualified licensed social worker or others designated by the court meet child placement licensing requirements for adoption in Arkansas.

(B) Licensed adoption agencies are exempt from this review;

(4) Provide an approval letter to the United States Citizenship and Immigration Service upon request to verify compliance to licensing requirements;

(5) Maintain permanent adoption files; and

(6) Train staff with licensed private adoption agencies, licensed social workers, and others designated by the court involved with intercountry adoption.

(b) The Adoption Specialist will refer intercountry adoption inquiries/referrals to the Adoptions Manager or designee.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2010"

9 CAR § 40-943. Subsidized guardianship.

(a) **Overview.**

(1)(A) For children for whom a permanency goal of guardianship with a relative has been established, the Division of Children and Family Services offers a federal (Title IV-E) Subsidized Guardianship Program to further promote permanency for those children, provided subsidized guardianship eligibility criteria are met.

(B) Any non-IV-E eligible child may enter into a subsidized guardianship supported by Arkansas State General Revenue if the Department of Human Services determines that adequate funding is available, and all other Subsidized Guardianship Program criteria are met.

(C) The monthly subsidized guardianship payment shall be used to help relative and fictive kin guardian or guardians defray some costs of caring for the child's needs.

(2)(A) During permanency planning staffings guardianship should be explored as a potential permanency option.

(B) If it is determined at the permanency planning hearing that a guardianship arrangement with relatives or fictive kin is in the child's best interest and the child's permanency goal is changed to legal guardianship, the Division of Children and Family Services shall then determine if a specific guardianship arrangement may be supported by a subsidy through the Division of Children and Family Services' Subsidized Guardianship Program.

(C) Only guardians who initially served as an approved relative or fictive kin foster home may apply for a guardianship subsidy.

(D)(i) For the purposes of determining eligibility for a guardianship subsidy, the necessary degree of relationship is satisfied by a relative or fictive kin as defined in Arkansas Code § 9-28-108.

(ii)*(a)* A relative means a person within the fifth degree of kinship by

virtue of blood or adoption.

(b) The fifth degree is calculated according to the child.

(iii) Fictive kin is defined as a person selected by the department who:

(a) Is not related to a child by blood or marriage; and

(b) Has a strong, positive, and emotional tie or role in the child's life or the child's parent's life if the child is an infant.

(3)(A) When it is in the best interest of each of the children, the Division of Children and Family Services shall attempt to place siblings together in the same guardianship arrangement.

(B) Siblings may be related by biological, marital, or legal ties.

(C) A child who meets the eligibility criteria for a subsidized guardianship will qualify his or her siblings for subsidized guardianship as well, provided the siblings are placed in the same relative or fictive kin home.

(D) The child who qualifies for a guardianship subsidy does not necessarily have to be placed at the same time as his or her siblings in the relative or fictive kin home.

(E) The guardianships for each child in the same relative or fictive kin home do not need to be finalized in any particular sequence.

(b) **Eligibility criteria for subsidized guardianship.** A child is eligible for a subsidized guardianship in Arkansas if the Division of Children and Family Services determines that:

(1) The child has been removed from his or her home pursuant to a judicial determination that continuation in the home would be contrary to the welfare of the child and, as such, the child has been placed in department custody per judicial order;

(2)(A) The child has resided for at least six (6) consecutive months in the fully approved foster home of the prospective relative or fictive kin guardian or guardians which is eligible to receive payments on behalf of the child, i.e., the prospective relative or fictive kin guardian's home is no longer a provisional foster home and has been serving as a fully approved foster home to the child seeking a legal guardianship

arrangement for at least six (6) consecutive months (see 9 CAR § 40-801 et seq., Development of Resource Homes and Support to Resource Parents).

(B) Any disruption in placement with the prospective relative or fictive kin guardian that is less than fourteen (14) days will not affect the six-consecutive-month qualifying period;

(3) Being returned home to the person from whom he or she was removed or being adopted are not appropriate permanency options for the child, the guardianship arrangement is in the child's best interest, and documentation supporting these determinations is provided;

(4) The child demonstrates a strong attachment to the prospective relative guardian or guardians and the guardian or guardians has a strong commitment to caring permanently for the child/youth;

(5) Each child is consulted regarding the guardianship arrangement; and

(6) The youth, if more than twelve (12) years of age, signs a consent to guardianship if he or she agrees to the guardianship arrangement, and it is agreed that procedures to finalize the guardianship should be initiated, unless the court determines it is in the minor's best interest to dispense with the minor's consent.

(c) **Case plan requirements for subsidized guardianship.** If legal guardianship with a relative or fictive kin is the intended permanency goal for a child and the relative or fictive kin guardian or guardians intend to apply for a guardianship subsidy, the child's case plan shall include a description of the ways in which the child meets the eligibility requirements for a subsidized guardianship arrangement to include:

(1) The steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;

(2) The reasons for any separation of siblings during placement and description of the efforts made to place currently separated siblings together, the efforts made to provide frequent visitation or other ongoing interaction between siblings, and efforts to reunify separated siblings;

(3) The reasons why a permanent placement with an appropriate and willing relative or fictive kin supported by a subsidized guardianship arrangement is in the

child's best interest;

(4) The efforts that the Division of Children and Family Services has made to discuss adoption by the child's relative or fictive kin foster parent as a more permanent alternative to legal guardianship and, in the case of a relative or fictive kin foster parent who has chosen not to pursue adoption, documentation of the reasons;

(5) The efforts made by the Division of Children and Family Services to discuss with the child's parent or parents the guardianship arrangement, or the reasons why the efforts were not made;

(6) The process in place to allow for a successor guardian in the event that the relative or fictive kin guardian of the child dies or is no longer able to care for the child; and

(7) Any appropriate transitional youth services for those youth who exit foster care and enter into a guardianship arrangement supported by a subsidy after sixteen (16) years of age.

(d) **Additional requirements for subsidized guardianship when proposed guardian resides out-of-state.**

(1) If a guardianship supported by a subsidy is being pursued with a relative or fictive kin who resides outside of Arkansas, that relative or fictive kin must identify a willing resident agent for service within Arkansas.

(2) The resident agent for service is a person who must accept service of any action or suit with respect to the guardianship, as applicable, on behalf of the out-of-state guardian.

(3) The resident agent of service must provide any action or suit with respect to the guardianship received as the resident agent to the out-of-state guardian.

(4) Any individual who agrees to serve as the resident agent for service must accept his or her designation in writing and this designation will be filed with the court.

(e) **Subsidized guardianship payments.**

(1)(A) The Division of Children and Family Services will provide subsidized guardianship payments on behalf of eligible children and their siblings (when placed in the same relative or fictive kin home) to approved relatives or fictive kin who assume

legal guardianship of the youth for whom they have cared as fully approved foster parents.

(B) Subsidized guardianship payments cannot be made prior to the transfer of guardianship.

(C) The prospective relative or fictive kin guardians will receive foster care board payments until the transfer of guardianship occurs.

(2) For an eligible child entering a subsidized guardianship arrangement prior to reaching sixteen (16) years of age (and their siblings placed in the same home prior to reaching sixteen (16) years of age), the subsidized guardianship payment will cease when the child reaches eighteen (18) years of age.

(3) Any eligible child in foster care entering a subsidized guardianship arrangement at sixteen (16) years of age or older (and his or her siblings in the same home at sixteen (16) years of age or older) is eligible for subsidized guardianship until he or she reaches twenty-one (21) years of age provided at least one (1) of the following criteria are met:

(A) The child is completing secondary education or a program leading to an equivalent credential;

(B) The child is enrolled in an institution which provides postsecondary or vocational education;

(C) The child is participating in a program or activity designed to promote or remove barriers to employment;

(D) The child is employed for at least eighty (80) hours per month; or

(E) The child is incapable of doing any of the above described activities due to a medical condition.

(4)(A) In addition, guardianship subsidy payments may also continue for a child up to twenty-one (21) years of age if the state determines that the child has a mental or physical handicap that warrants the continuation of assistance.

(B) If the state determines the youth has a mental or physical handicap that warrants the continuation of the guardianship subsidy assistance up to twenty-one (21) years of age, that youth is not subject to the education and employment

requirements listed above for youth eighteen to twenty-one (18-21) years of age.

(C) Requests for extension of subsidy agreements up to twenty-one (21) years of age due to a mental or physical handicap must be submitted by the guardian or guardians to the subsidized guardianship coordinator or designee at least three (3) months prior to the termination of the current subsidy agreement.

(D) Such extension requests received after this time frame, to include after the youth has turned eighteen (18) years of age but not yet reached twenty-one (21) years of age, may still be considered.

(E) However, any subsidy agreement that is extended past eighteen (18) years of age due to a mental or physical handicap will take effect on the date the new subsidy agreement reflecting the extension is signed.

(F) Any monthly subsidy payments that were not made between the end date of the initial subsidy agreement and the date of the new subsidy agreement reflecting a subsidy extension past eighteen (18) years of age will not be made retroactively.

(5) The Division of Children and Family Services will ensure that the relatives or fictive kin receiving a subsidized guardianship payment on behalf of a child over eighteen (18) years of age provide documentation annually that the child meets the employment or education requirements listed above up to twenty-one (21) years of age.

(6) If a child is incapable of meeting the above referenced education or employment requirements due to a medical condition or has a mental or physical handicap or handicaps the reason for which the child is incapable of meeting the education or employment requirements must be documented by a medical professional and updated annually until the child reaches twenty-one (21) years of age.

(7)(A) When siblings are placed together in a subsidized guardianship arrangement, the subsidized guardianship payments will be paid on behalf of each of the siblings.

(B) The sibling of a child eligible for subsidized guardianship does not need to meet any subsidized guardianship eligibility requirements himself or herself.

(8) When determining the amount of each subsidized guardianship payment the following shall be considered:

(A)(i) The needs of the child as supported by accompanying documentation.

(ii) The rate should not be linked to the means of the prospective relative or fictive kin guardians;

(B)(i) The subsidized guardianship payment shall not exceed the foster care board payment that would have been paid on that child's behalf if he or she had remained in a foster family home.

(ii) Any child receiving a subsidized guardianship payment may have his or her guardianship subsidy adjusted per Arkansas rate structure based on the child's age or the child's special needs.

(iii) The subsidy shall not be greater than the amount which the child would have received had the child remained in a foster family home;

(C)(i) The relative or fictive kin guardians may not draw both a Supplementary Security Income payment and a subsidized guardianship payment.

(ii) The relatives or fictive kin shall determine which form of assistance best meets the needs of the child;

(D) The relative or fictive kin guardians may draw both a Title II Social Security Administration payment and a subsidized guardianship payment but the total amount of the combined payments may not exceed the child's foster care board payment; and

(E)(i) Any conserved funds in a child's trust account shall not affect a child's subsidized guardianship eligibility or payments.

(ii) However, the Division of Children and Family Services Eligibility Unit shall close any trust account or accounts when a child exits care.

(iii) The administering agency of the trust account will redistribute the funds per its respective regulations after any board payments, contract reimbursements, and/or overpayments are deducted from the account balance prior to close out.

(9)(A) In addition to the monthly subsidized guardianship payments, approved relative or fictive kin guardian or guardians of a child eligible for the subsidized guardianship program will also receive funding for the total cost of nonrecurring expenses related to obtaining legal guardianship up to two thousand dollars ($2,000) per child.

(B) The majority of legal services should be provided by the department Office of Chief Counsel which would not incur legal fees upon the relative or fictive kin guardians.

(10)(A) The relative or fictive kin guardian or guardians are required to inform the Division of Children and Family Services of circumstances that would make them ineligible for subsidized guardianship payments or eligible for payments in a different amount, e.g., if the child becomes eligible for and begins receiving SSA payments.

(B) The relative or fictive kin guardian or guardians must also notify the Division of Children and Family Services of any change of address.

(C) Any subsidized guardianship payment will remain in effect without regard to the state of residence of the relative or fictive kin guardian or guardians.

(f) **Medical coverage for subsidized guardianship arrangements.**

(1)(A) The Division of Children and Family Services will ensure health insurance coverage under Medicaid Title XIX for any Title IV-E eligible child, and their Title IV-E eligible siblings when placed in the same relative or fictive kin home, who receives a subsidized guardianship payment as the child must be eligible for and receiving Title IV-E guardianship subsidy payments in order to be categorically eligible for Medicaid.

(B) The subsidized guardianship agreement will indicate Medicaid coverage for Title IV-E eligible children.

(2)(A) A non-Title IV-E eligible child may qualify for certain Medicaid categories depending on the needs of the child.

(B) The relative or fictive kin guardian of a non-Title IV-E eligible child may apply for health insurance (e.g., ARKids First Program) for the child through their local department county office.

(C) Coverage through the local department county office is not guaranteed and may only extend until the time the child reaches nineteen (19) years of age.

(g) **Subsidized guardianship program determinations.**

(1) The child's permanency planning staffing shall be the forum in which the determination regarding whether a guardianship arrangement is in the child's best interest and his or her siblings', if applicable.

(2)(A) If the child's permanency planning hearing results in a permanency goal of a legal guardianship with a specific relative or fictive kin, the Division of Children and Family Services shall then determine if the child (and his or her siblings if applicable) and prospective relative or fictive kin guardian or guardians may qualify for a subsidized guardianship.

(B) If the child's FSW believes the child and relative or fictive kin guardians may qualify based on the subsidized guardianship eligibility and case plan criteria, he or she will make a referral to the Division of Children and Family Services Subsidized Guardianship Coordinator or designee.

(3)(A) If the Division of Children and Family Services Subsidized Guardianship Coordinator or designee agrees that the family is a candidate for subsidized guardianship, a family-centered subsidized guardianship determination meeting will be held.

(B) The purpose of the meeting is to explain the Subsidized Guardianship Program to the prospective relative or fictive kin guardian or guardians and ensure that eligibility and case plan criteria for the program are met.

(C) The Division of Children and Family Services Subsidized Guardianship Coordinator or designee will facilitate the family-centered subsidized guardianship determination meetings.

(4)(A) If it is determined that all Subsidized Guardianship Program eligibility and case plan criteria are satisfied, the decision shall be relayed to the Subsidized Guardianship Oversight Committee via the Division of Children and Family Services Subsidized Guardianship Coordinator or designee.

(B) The committee serves as an auditing entity to ensure all eligibility and case plan requirements have been met.

(5) The committee shall include, but is not limited to the Division of Children and Family Services:

(A) Subsidized Guardianship Coordinator or designee;

(B) Foster Care Manager or designee;

(C) Adoption Manager or designee; and

(D) Director or designee in cases involving special subsidy requests.

(6) If the committee verifies that all Subsidized Guardianship Program eligibility and case plan criteria have been met, the department may then petition the court for a guardianship hearing to finalize the guardianship and subsidized guardianship agreement.

(h) **Subsidized guardianship agreements.**

(1)(A) Once guardianship with a specific relative or fictive kin has been established as the child's permanency goal and then after the Division of Children and Family Services has determined that the guardianship may be supported by a guardianship subsidy, the family and the Division of Children and Family Services will finalize the subsidized guardianship agreement.

(B) A subsidized guardianship agreement, a written, binding agreement negotiated between the relative or fictive kin guardian or guardians, the Division of Children and Family Services, and other relevant agencies must be in place prior to the finalization of the legal guardianship supported by a subsidy.

(C) The prospective relative or fictive kin guardian or guardians shall receive a copy of the agreement.

(2) The subsidized guardianship agreement will specify:

(A)(i) The amount of, and manner in which, each subsidized guardianship payment will be provided under the agreement.

(ii) Subsidized guardianship payment should not exceed the amount of the child's foster care board payment unless special circumstances related to the child's care warrant a special subsidy rate;

(B) That (and the manner in which) the payment may be adjusted periodically, in consultation with the relative or fictive kin guardian or guardians based on the circumstances of the relative or fictive kin guardian and the needs of the child;

(C) The additional services and assistance that the child and relative or fictive kin guardian or guardians will be eligible for under the agreement including Medicaid coverage that may be available through the Division of Children and Family Services Eligibility Unit or, in the case of non-IV-E children, through the local department county office;

(D) The procedure by which the relative or fictive kin guardian or guardians may apply for additional services needed;

(E) That the Division of Children and Family Services will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child/youth up to two thousand dollars ($2,000);

(F) That the child shall retain eligibility for federal adoption assistance payments under Title IV-E, provided he or she was eligible when the subsidized guardianship agreement was negotiated, if the guardian later decides to adopt the child;

(G) That the agreement will become effective upon the entering of a court order granting guardianship of the child to the guardian or guardians;

(H) That the agreement shall remain in effect without regard to state residency of the relative or fictive kin guardian;

(I) That the relative or fictive kin guardian or guardians are required to respond to guardianship agreement review requests from the Division of Children and Family Services so that the Division of Children and Family Services can file an annual report with the court as required in law; and

(J)(i) Designated successor guardian or guardians, if desired, for the child in the event that the current relative or fictive kin guardian is no longer able to fulfill guardianship responsibilities.

(ii)*(a)* Successor guardian or guardians and all household members within that individual's home must clear any applicable Child Maltreatment Central

Registry checks, Division of Arkansas State Police criminal record checks, and a vehicle safety check before being identified as a potential successor guardian in the subsidized guardianship agreement.

(b) In the event the initial relative or fictive kin guardian dies or is otherwise incapacitated, placement with the successor guardian identified in the initial guardianship agreement (or any amendments to the agreement) may be pursued, as appropriate.

(c) After a new guardianship subsidy agreement is signed by the successor guardian and the Division of Children and Family Services and the new guardianship is subsequently entered before the court, the subsidized guardianship assistance payments will continue to the successor guardian.

(iii) However, the child must also continue to meet all subsidized guardianship eligibility criteria in order to move forward with a subsidized guardianship arrangement with the identified successor guardian.

(i) **Annual progress report and review of subsidized guardianship agreement.**

(1) An annual progress report and review of the subsidized guardianship agreement are required annually in order for the subsidized guardianship and subsidized guardianship payments of any amount or payment rate to continue.

(2) The progress report and review shall be provided to the guardian or guardians by the Division of Children and Family Services Subsidized Guardianship Coordinator or designee.

(3) Upon receipt of the completed progress report and review, the Subsidized Guardianship Coordinator or designee will send those documents to the appropriate court so that the progress report can be filed with the court as required in law.

(4) An accounting of the guardianship subsidy is not required.

(5) The subsidized guardianship payments granted at the time of the annual progress report will reflect the child's current documented level of need.

(j) **Revision or termination of subsidized guardianship agreement.**

(1)(A) Revisions to the subsidized guardianship agreement and/or payments

may be requested any time:

(i) There is a significant change in the child's circumstance; and

(ii) The relative or fictive kin guardian can provide the required and/or requested documentation.

(B) To request a revision to the subsidized guardianship agreement and/or payments, the family shall contact the Division of Children and Family Services Subsidized Guardianship Coordinator or designee.

(2) The subsidized guardianship agreement and, consequently the subsidized guardianship payments, shall be revised or terminated as appropriate:

(A) If the child is absent from the relative or fictive kin guardian home for more than fourteen (14) days in a month (in such an event, the child will be eligible for only a portion of the month that he or she was in the relative or fictive kin guardian home) excluding when a child eighteen (18) years of age or older lives in an approved transitional living situation outside of the home (e.g., college dorm);

(B) When the terms of the subsidized guardianship agreement are fulfilled;

(C)(i) If the child begins receiving SSI, Social Security Administration, or any other source of income excluding any income that the child may earn from his or her own employment.

(ii) The relative or fictive kin guardian is responsible for notifying the Division of Children and Family Services if the child begins receiving other sources of income;

(D) If the child has attained the age of eighteen (18) years of age for those who entered into the subsidized guardianship arrangement prior to sixteen (16) years of age;

(E) If the child has attained twenty-one (21) years of age for those who entered into the subsidized guardianship arrangement at sixteen (16) years of age or older;

(F) If the child who has an extended subsidy (i.e., up to twenty-one (21) years of age) does not meet the education or employment conditions outlined above in

the subsidized guardianship payments section;

(G) If the child who has extended subsidy, i.e., up to twenty-one (21) years of age, is no longer determined to have a mental or physical handicap which warrants the continuation of assistance;

(H) If the child who has an extended subsidy, i.e., up to twenty-one (21) years of age, upon reaching eighteen (18) years of age or older requests the guardianship be terminated;

(I) If the child becomes an emancipated minor;

(J) If the child marries;

(K) If the child enlists in the military;

(L) If the relative or fictive kin guardian or guardians are no longer legally or financially responsible for the support of the child;

(M) If the guardian or guardians die;

(N) If the guardianship is vacated; or

(O) If the child dies.

(3) Subsidized guardianship payments may continue to be paid on behalf of the child if the child moves out of the relative or fictive kin guardian's home or otherwise lives independently of the guardian or guardians as long as the guardian or guardians continue to provide support to the child.

(4)(A) If a child whose relatives or fictive kin are receiving subsidized guardianship payments on his or her behalf re-enters department custody, the subsidized guardianship agreement will be terminated until such time that the child is reunified with the relative or fictive kin guardian or guardians or, in certain cases until such time that a legal guardianship with the successor guardian is determined to be in the child's best interest, it is determined that:

(i) The child and successor guardian qualify for a subsidized guardianship; and

(ii) A new subsidized guardianship agreement with the successor guardian is finalized.

(B) A successor guardian is not entitled to any payments that would have

been made to the initial guardian during the time a child spends in department custody.

(C) The successor guardian may only receive subsidized guardianship payments once the court has formally appointed the successor guardian as the child's legal guardian and the subsidized guardianship agreement is in effect.

(k) **Appeals.**

(1)(A) Relative or fictive kin guardian or guardians may appeal the Division of Children and Family Services' decision to deny, terminate, or modify their child's subsidized guardianship agreement and/or payments in accordance with the rules and procedures of the state's fair hearing and appeal process per the Appeals and Hearings Procedures, 25 CAR pt. 34.

(B) The relative or fictive kin guardian or guardians must appeal an adverse decision within thirty (30) calendar days of written notice of the adverse action.

(C) Subsidized guardianship payments will be suspended pending the determination of all appeals.

(D) Families receiving a favorable ruling in their hearing may be entitled to assistance (back payment) that had been suspended.

(2)(A) The child would only be eligible for Title IV-E subsidized guardianship if all eligibility criteria had been met prior to the finalization of the guardianship (including executing a subsidized guardianship agreement).

(B) Therefore, even if the Office of Hearings and Appeals orders the Division of Children and Family Services to provide subsidized guardianship payments and services for the child, the state shall not claim FFP under Title IV-E if a subsidized guardianship agreement was not in place prior to the guardianship.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-944. Initial subsidized guardianship program determinations.

(a) If a goal of guardianship with a relative or fictive kin has been determined to be in the child's best interest, the FSW will:

(1) Gather and review all relevant documentation to determine the child's eligibility for the Subsidized Guardianship Program;

(2) Complete CFS-435-A: Subsidized Guardianship Program Application and Checklist with the child (if age appropriate), prospective relative or fictive kin guardians, and child's biological parents (if appropriate) to make the initial determination that the child and prospective or fictive kin relative guardians meet all subsidized guardianship eligibility requirements;

(3) Update the case plan to reflect guardianship goal and other required program information (see case plan requirements for subsidized guardianship in subsection (c) of this section);

(4) Submit the completed CFS-435-A to the FSW supervisor for review and approval and attach any other documentation that would be important to the child's case (financial information, special board rate justification), but at minimum the following to complete the referral packet:

(A) Case history memorandum detailing the specifics of the child's overall situation, e.g., parent information, special needs, connection to the proposed guardian, how reunification and adoption have been ruled out, whether child is IV-E eligible, length of time placed in the approved relative or fictive kin foster home;

(B) Child's signed consent to guardianship for children fourteen (14) years of age and older;

(C) Final SAFE home study report update, as applicable;

(D) Most recent foster home approval letter;

(E) Court orders documenting reasonable efforts, ruling out reunification and adoption, and establishing a goal of guardianship; and

(F) Notarized statement from relative or fictive kin verifying discussion of all permanency options available and understanding of those options as well as decision

to elect guardianship and apply for a subsidy; and

(5) If the FSW Supervisor:

(A) Denies moving forward with the subsidized guardianship arrangement, proceed to 9 CAR § 40-945, denial of subsidized guardianship arrangement; or

(B) Approves moving forward with the subsidized guardianship arrangement:

(i) Update the child's case plan in CHRIS to describe the ways in which the child meets the eligibility requirements for a subsidized guardianship arrangement to include:

(a) Steps the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;

(b) Reasons for any separation of siblings during placement, the efforts made to place currently separated siblings together, the efforts made to provide frequent visitation or other ongoing interaction between siblings not placed together, and efforts to reunify separated siblings in the same home;

(c) Reasons why a permanent placement with an appropriate and willing relative or fictive kin through a subsidized guardianship arrangement is in the child's best interest;

(d) Efforts that the Division of Children and Family Services has made to discuss adoption by the child's relative or fictive kin foster parent as a more permanent alternative to legal guardianship and, in the case of a relative or fictive kin foster parent who has chosen not to pursue adoption, documentation of those reasons;

(e) Efforts made by the Division of Children and Family Services to discuss with the child's parent or parents subsidized guardianship arrangement, or the reasons why the efforts were not made;

(f) Process in place to allow for a successor guardian in the event that the relative or fictive kin guardian of the child dies or is no longer able to care for the child; and

(g) Any appropriate transitional youth services for those youth who exit foster care at or after sixteen (16) years of age;

(ii) Notify the child's biological parents, if appropriate, attorney ad litem, the Office of Chief Counsel representative, parent counsel (if applicable), and the Division of Children and Family Services Subsidized Guardianship Coordinator or designee that the child and prospective relative or fictive kin guardians would like to proceed with the subsidized guardianship arrangement; and

(iii) If the Division of Children and Family Services Subsidized Guardianship Coordinator or designee determines that:

(a) All initial eligibility and case plan criteria have been met, notify the FSW to proceed with subsidized guardianship determination meeting arrangements to discuss the Subsidized Guardianship Program (per 9 CAR § 40-947, subsidized guardianship determination meeting); or

(b) All eligibility and case plan criteria have not been met, then discuss with the Division of Children and Family Services Subsidized Guardianship Coordinator or designee how to meet said criteria and/or other possible permanency options or proceed to 9 CAR § 40-945, denial of subsidized guardianship arrangement, as applicable.

(b) The FSW supervisor will:

(1) Conference with the FSW as to the appropriateness of a guardianship arrangement supported by a subsidy for the child with the prospective relative or fictive kin guardians;

(2) Review the completed CFS-435-A: Subsidized Guardianship Application and Checklist and other required referral packet documentation;

(3) Notify FSW of approval or denial to move forward with the subsidized guardianship arrangement; and

(4) Notify the Area Director of any approval or denial to move forward with a subsidized guardianship arrangement.

(c) The Division of Children and Family Services Subsidized Guardianship Coordinator or designee will:

(1) Review each submitted CFS-435-A: Subsidized Guardianship Program Application and Checklist and other supporting documentation to determine if the family

meets the initial eligibility and case plan criteria to further pursue a subsidized guardianship arrangement; and

(2) Make the determination as to whether it is appropriate to continue pursuing the subsidized guardianship arrangement and either:

(A) Notify the FSW, FSW Supervisor, and Area Director to proceed to 9 CAR § 40-946, if the subsidized guardianship arrangement is appropriate;

(B) Notify the FSW, FSW Supervisor, and Area Director that a subsidized guardianship arrangement is not currently appropriate and discuss how to meet needed criteria;

(C) Discuss other possible permanency options; or

(D) Instruct FSW to proceed to 9 CAR § 40-945, denial of subsidized guardianship arrangement.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-945. Denial of subsidized guardianship arrangement.

If at any point in time it is determined in consultation with the FSW supervisor and the Division of Children and Family Services Subsidized Guardianship Coordinator or designee that a legal guardianship supported by a subsidy is not appropriate for the child and/or relative or fictive kin guardian applicant, the division Subsidized Guardianship Coordinator will:

(1) Complete and provide to the relative or fictive kin guardian applicant CFS-435-B: Notification of Subsidized Guardianship Program Denial;

(2) Keep a copy of CFS-435-B: Notification of Subsidized Guardianship Program Denial in the division Subsidized Guardianship Coordinator or designee's file;

(3) Notify the FSW and FSW Supervisor of the decision;

(4) Note in CHRIS contacts screen the reason for subsidized guardianship denial; and

(5) Work with the family and county office, as appropriate, to determine the permanency goal that is in the child's best interest and/or how the child and/or relative or fictive kin guardian applicant may become eligible for a legal guardianship supported by a subsidy if appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-946. Subsidized guardianship determination meeting.

(a) The FSW will:

(1) Coordinate the subsidized guardianship determination meeting to discuss the potential subsidized guardianship arrangement and agreement within fourteen (14) days of receiving notification from the Division of Children and Family Services Subsidized Guardianship Coordinator or designee to move forward with pursuing a subsidized guardianship arrangement;

(2)(A) Arrange a date for the following participants to attend the family-centered meeting with a preference of at least seven (7) days' notice before the meeting date (though the meeting may take place earlier if all participants agree to an earlier date):

(i) Child, if age appropriate;

(ii) Prospective relative or fictive kin guardians;

(iii) Child's biological parents, if appropriate;

(iv) Any grandparent who is entitled to notice based on the conditions

listed in 9 CAR § 40-406, notification of relatives and fictive kin when a child is taken into custody by the Division of Children and Family Services, and related procedures;

(v) Child's FSW;

(vi) FSW Supervisor

(vii) Adoption representative (if Adoption Representative did not participate in permanency planning staffing); and

(viii) The division Subsidized Guardianship Coordinator or designee.

(B) The following shall be invited to the meeting but attendance is not required:

(i) Area director or designee;

(ii) Child's attorney ad litem;

(iii) Child's CASA (if applicable);

(iv) Office of Chief Counsel representative; and

(v) Parent counsel (if applicable); and

(3) If it is determined during the meeting that it is not appropriate for the family to move forward with the legal guardianship supported by a guardianship subsidy, see 9 CAR § 40-945, denial of subsidized guardianship arrangement.

(b) The FSW supervisor will:

(1) Conference with the FSW as needed;

(2) Participate in the subsidized guardianship determination meeting; and

(3) Inform the Area Director of issues related to pursuing the subsidized guardianship arrangement for the child.

(c) The division Subsidized Guardianship Coordinator or designee will:

(1) Facilitate the subsidized guardianship determination meeting;

(2) Provide an overview of subsidized guardianship to ensure that all participants have a thorough understanding of the intent and requirements of the program;

(3)(A) Discuss the subsidy rate with the prospective relative or fictive kin guardians.

(B) The subsidy rate should not exceed the child's current foster care

board payment;

(4) If the prospective relative or fictive kin guardians inquire about a special subsidy rate, i.e., more than the child's current foster care board payment, due to special circumstances related to the youth's care, ask them to complete CFS-435-C: Subsidized Guardianship Special Subsidy Request and to provide the division with a written statement from the child's physician or treatment professional that provides:

(A) Child's diagnosis;

(B) Child's prognosis;

(C) Identification of any current treatment being provided; and

(D) Reasoning as to why the preceding information would warrant a special subsidy rate;

(5) Inform the prospective relative or fictive kin guardians that any approved guardianship subsidy:

(A) Will be paid according to the terms outlined in the CFS-435-F: Subsidized Guardianship Agreement, which will not be effective until the court enters an order of guardianship; and

(B) May be modified at the annual review based on changes in policy or significant changes in the child's circumstances; and

(6) If determined during the subsidized guardianship determination meeting that it is appropriate for the family to move forward with the legal guardianship supported by a guardianship subsidy, submit all related forms and supporting documentation to the committee within forty-eight (48) hours of the staffing of the family's intent to move forward.

Authority. Arkansas Code § 20-76-201.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-947. Subsidized Guardianship Oversight Committee review.

(a) The Subsidized Guardianship Oversight Committee will:

(1)(A) Meet to review and discuss all subsidized guardianship forms and supporting documentation within fourteen (14) calendar days of receiving the information from the Division of Children and Family Services Subsidized Guardianship Coordinator.

(B) This includes review of CFS-435-C: Subsidized Guardianship Special Subsidy Request and any documentation received from the family that would support the need for a special subsidy rate;

(2) Verify that all subsidized guardianship eligibility and case plan criteria have been met; and

(3) Determine if a special subsidy rate is warranted, if requested.

(b) The division Subsidized Guardianship Coordinator or designee will:

(1) Facilitate the committee meeting; and

(2) Notify the FSW, FSW Supervisor, and Area Director of the Subsidized Guardianship Oversight Committee's verification regarding the subsidized guardianship arrangement and any special subsidy rate determination (if applicable):

(A) If the committee verifies that the subsidized guardianship arrangement should move forward, ask the FSW to work with the local Office of Chief Counsel attorney to file a petition for guardianship (and determine a court date for the guardianship hearing if date has not already been set) and proceed to 9 CAR § 40-951, subsidized guardianship agreement finalization; and

(B) If the committee cannot verify that the subsidized guardianship arrangement should move forward, tell the FSW to:

(i) Work with the family to meet any needed adjustments determined by the committee that may qualify them to move forward with a subsidized guardianship arrangement at a later date; or

(ii) See 9 CAR § 40-945, denial of subsidized guardianship arrangement, if appropriate.

(c) The FSW will:

(1) If moving forward with the subsidized guardianship arrangement, request that the local Office of Chief Counsel attorney petition the court to finalize the guardianship and the subsidized guardianship agreement by providing the Office of Chief Counsel attorney with a copy of the CFS-435-A: Subsidized Guardianship Application and Checklist that includes the division Subsidized Guardianship Coordinator or designee's signature; or

(2) If not moving forward with the subsidized guardianship arrangement:

(A) Work with the family to meet any needed adjustments determined by the committee that may qualify them to move forward with a subsidized guardianship arrangement at a later date, if applicable; or

(B) See 9 CAR § 40-945, denial of subsidized guardianship arrangement, if applicable.

(d) The FSW Supervisor will:

(1) Conference with the FSW as needed; and

(2) Inform the Area Director of issues related to pursuing the subsidized guardianship arrangement for the child.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-948. Subsidized guardianship agreement finalization.

(a) The Division of Children and Family Services Subsidized Guardianship Coordinator or designee will:

(1) Complete the CFS-435-D: Recommendation for Finalization of Guardianship and submit to the appropriate Office of Chief Counsel attorney who will use the

information on the form to prepare the guardianship petition;

(2) Draft and complete the CFS-435-F: Subsidized Guardianship Agreement with the prospective guardians and FSW prior to the guardianship hearing;

(3) Submit the CFS-435-F: Subsidized Guardianship Agreement to the Adoption's Manager or designee for review and approval; and

(4) Sign the CFS-435-F: Subsidized Guardianship Agreement.

(b) The Adoption Manager or designee will:

(1) Review the CFS-435-F: Subsidized Guardianship Agreement and approve or deny as appropriate; and

(2) Inform the Subsidized Guardianship Coordinator or designee of approval or denial.

(c) The FSW will:

(1) Assist the division Subsidized Guardianship Coordinator or designee in completing the CFS-435-F: Subsidized Guardianship Agreement with the prospective guardian or guardians prior to the guardianship hearing; and

(2) Ensure all signatures required on the CFS-435-F: Subsidized Guardianship Agreement are obtained.

(d) The FSW Supervisor will:

(1) Conference with the FSW regarding decisions related to and preparation for the finalization of the subsidized guardianship agreement; and

(2) Inform the Area Director of issues related to pursuing the subsidized guardianship arrangement for the child.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-949. Guardianship hearing for subsidized guardianship.

(a) The FSW will:

(1) Receive the confirmed guardianship hearing court date from the Office of Chief Counsel attorney (if guardianship hearing date was not previously set);

(2)(A) Provide notice to the participants (e.g., foster parents, other relatives, etc.) at least fourteen (14) calendar days before the guardianship hearing.

(B) The Office of Chief Counsel will provide notice to parties to the legal case;

(3)(A) If siblings will not also be placed in the subsidized guardianship arrangement, make a recommendation to the court to allow visits between siblings and with other relatives (if in the best interest of the children).

(B) Document the recommendation in the court report;

(4) Complete court report for the guardianship hearing and submit to supervisor for review;

(5) Submit the CFS-6011: Court Report to the Office of Chief Counsel attorney within fourteen (14) calendar days prior to the hearing;

(6) Document distribution of court reports to all parties or their attorneys and CASA, if applicable via the CFS-423: Certificate of Service;

(7) Attend the hearing with the case file and be prepared to provide testimony regarding services offered or provided, progress, and recommendations to the court;

(8) Present the completed CFS-435-F: Subsidized Guardianship Agreement to the court; and

(9) Once the court finalizes legal guardianship and the subsidized guardianship agreement with the relative or fictive kin guardians:

(A) Discuss the court orders with the family;

(B) File the CFS-435-F: Subsidized Guardianship Agreement in the provider record;

(C)(i) Provide a copy of the CFS-435-F: Subsidized Guardianship Agreement to the relative or fictive kin guardian or guardians.

(ii) Once approved (i.e., once the court enters an order granting

guardianship), the subsidized guardianship agreement will remain in effect without regard to the state residency of the legal relative or fictive kin guardian as long as the guardianship remains in effect or has not been terminated;

(D) For Title IV-E eligible children, provide the Division of Children and Family Services Eligibility Unit a copy of the finalized court decree indicating the legal guardianship and a copy of the finalized CFS-435-F: Subsidized Guardianship Agreement in order to continue Medicaid coverage for the child;

(E) For non-Title-IV-E eligible children, instruct the relative or fictive kin guardian or guardians to apply for healthcare coverage at their local Department of Human Services county office;

(F) Exit the child out of foster care and into a subsidized guardianship arrangement supported by a guardianship subsidy in CHRIS; and

(G) Notify the relative or fictive kin guardian Resource Worker that legal guardianship has been granted.

(b) The FSW Supervisor will:

(1) Conference with the FSW as needed;

(2) Review and approve CFS-6011: Court Report;

(3) Attend the guardianship hearing; and

(4) Inform the Area Director of issues related to the subsidized guardianship arrangement for the child.

(c) The Resource Worker will end date the foster family service on the provider service tab selecting the appropriate reason for end date in CHRIS noting in the comment box on the provider services tab that home was closed due to the parent or parents assuming legal guardianship of the child supported by guardianship subsidy.

(d) The division Eligibility Unit will:

(1) Process the copy of the child's court decree and copy of the finalized CFS-435-F: Subsidized Guardianship Agreement to ensure continued Medicaid coverage for Title IV-E eligible children; and

(2) Close any trust account or accounts when any child exits foster care.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-950. Annual subsidized guardianship review.

(a) The Division of Children and Family Services Subsidized Guardianship Coordinator or designee will:

(1) Mail the relative guardians the CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review at least sixty (60) calendar days before the anniversary date of the finalization of the family's subsidized guardianship agreement with instructions to return in the provided envelope addressed to the Subsidized Guardianship Coordinator or designee:

(A) The completed CFS-435-G; and

(B) Required documentation:

(i) For nonschool-age children, documentation must include:

(a) Up-to-date immunization records;

(b) A typed statement on letterhead from the child's early intervention services provider indicating the child's participation and progress, if applicable; and

(c) A typed statement on letterhead from the child's daycare provider confirming enrollment, if applicable;

(ii) For school-age children, documentation must include:

(a) Up-to-date immunization records; and

(b) A written confirmation on letterhead from the child's Department of Education accredited school or home school program verifying enrollment and regular attendance; and

(iii) For children ages eighteen (18) years of age up to twenty-one

(21) years of age, documentation must include:

(a) A current transcript from the child's secondary education, postsecondary, or vocational education program, as applicable;

(b) A typed statement on letterhead from the person responsible for managing the child's program or activity designed to promote, or remove barriers to, employment confirming the child's enrollment and participation;

(c) The most recent pay stubs from the child's employer indicating that the child is working at least eighty (80) hours per month for that particular employer; or

(d) A typed statement on letterhead from the child's medical professional stating the reason for which the child is incapable of meeting the education or employment requirements listed above;

(2) Document in CHRIS date the CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review is mailed to the relative guardians;

(3) If the family has not returned the completed CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review and required documentation within thirty (30) calendar days from the date the form was mailed, contact the family by phone to ensure that said documents will be delivered to the division Subsidized Guardianship Coordinator or designee within two (2) weeks;

(4) Review the completed CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review and related supporting documentation prior to the anniversary date of finalization of the family's subsidized guardianship agreement:

(A) If the supporting documentation shows that the child's condition has not changed:

(i) Send completed copy of CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review with the division Subsidized Guardianship Coordinator or designee's signature to the family noting that the subsidized guardianship agreement will continue unchanged for the forthcoming year;

(ii) Send the original CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review with signatures to the appropriate court for

filing;

(iii) Maintain a copy of the completed CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review with signatures in guardian record; and

(iv) Enter appropriate CHRIS updates; or

(B) If the supporting documentation shows that the child's condition or status within the home has changed and the change or changes warrant a revision of the subsidized guardianship agreement or termination of the agreement:

(i)*(a)* Schedule a meeting with the relative or fictive kin guardians and adoption manager or designee to discuss needed revisions or termination including any requests for special subsidy rates.

(b) If a request for a special subsidy rate has been made, the subsidy will remain the same until the special subsidy is approved.

(c) Approval is not guaranteed;

(ii)*(a)* Revise CFS-435-F: Subsidized Guardianship Agreement if appropriate and complete CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review.

(b) Provide copy of completed CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review and new CFS-435-F: Subsidized Guardianship Agreement to family.

(c) Provide original CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review with signatures to the appropriate court for filing.

(d) Maintain a copy of completed CFS-435-F: Subsidized Guardianship Agreement and CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review in the guardian record; and

(iii) Enter appropriate CHRIS updates; and

(5) If relative or fictive kin guardian or guardians do not submit CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review and/or requested documentation within the required timeframe:

(A) Complete CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review and CFS-435-H: Notice of Modification or Termination to Subsidized Guardianship Agreement;

(B) Send the family a copy of the completed CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review and CFS-435-H: Notice of Modification or Termination to Subsidized Guardianship Agreement indicating termination of the agreement and associated payments and benefits;

(C) File the original CFS-435-G: Annual Progress Report and Subsidized Guardianship Agreement Review and CFS-435-H: Notice of Modification or Termination to Subsidized Guardianship Agreement in the guardian record; and

(D) Enter appropriate CHRIS updates including termination of subsidized guardianship payments.

(b) The Adoption Manager or designee will:

(1) Conference with the division Subsidized Guardianship Coordinator or designee as needed regarding decisions related to annual reviews of subsidized guardianship arrangements;

(2) Participate in meetings with the relative or fictive kin guardians and the division Subsidized Guardianship Coordinator or designee when discussing revisions to a subsidized guardianship agreement; and

(3) Submit any requests for an increase in a guardianship subsidy to the Director of the Division of Children and Family Services or designee for review.

(c) The director will review requests for increases in subsidized guardianship payments and approve or deny as appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-951. Placement with successor guardian.

(a) The information below does not apply to situations in which the initial guardian dies or is otherwise incapacitated.

(b) If a child whose relatives or fictive kin are receiving a guardianship subsidy on his or her behalf re-enters Department of Human Services custody, the Area Director or designee will:

(1) Notify the Division of Children and Family Services Subsidized Guardianship Coordinator that the child has re-entered care;

(2) Consult with the division Subsidized Guardianship Coordinator or designee and appropriate FSW supervisor as to whether:

(A) It is appropriate for the child to work toward reunification with the initial relative or fictive kin guardians;

(B) If the guardianship with the successor guardian is in the child's best interest and, if so, if the identified successor guardian and child meet the requirements of the eligibility criteria for the Subsidized Guardianship Program; or

(C) If another permanency option is more appropriate;

(3) If a subsidized guardianship arrangement with the successor guardian is determined to be appropriate, assign the appropriate Resource Worker to open the successor guardian's home as a provisional foster home per 9 CAR § 40-801 et seq., Development of Resource Homes and Support for Resource Parents; and

(4) If the successor guardian is determined not be an appropriate placement at that point in time, have the assigned FSW find an appropriate approved or licensed placement for the child per Arkansas Code § 9-28-402.

(c) The Resource Worker will:

(1) If notified by the Area Director or designee, open the successor guardian's home as a provisional foster home per 9 CAR § 40-801 et seq., Development of Resource Homes and Support for Resource Parents;

(2) Collaborate with the FSW to evaluate:

(A) How the other children and adults in the home will affect the

successful development of the child; and

(B) How the child will impact the other members of the home;

(3) Support the relative or fictive kin throughout the process of becoming a provisional and regular division foster home; and

(4) If and when legal guardianship is granted to the successor guardian, end date the foster family service on the provider service tab selecting the appropriate reason for end date in CHRIS noting in the comment box on the provider services tab that home was closed due to the parent or parents assuming legal guardianship of the child supported by a guardianship subsidy.

(d) The FSW Supervisor will:

(1) Consult with the FSW, Area Director, and the division Subsidized Guardianship Coordinator as to whether a subsidized guardianship arrangement with the initial relative or fictive kin guardians (i.e., reunification) or with the successor guardian is in the child's best interest or if another permanency option is more appropriate; and

(2) Conference with the FSW on decisions regarding the child.

(e) The FSW will:

(1) Consult with the FSW Supervisor, Area Director and the division Subsidized Guardianship Coordinator as to whether a subsidized guardianship arrangement with the initial relative or fictive kin guardians (i.e., reunification) or the successor guardian is in the child's best interest or if another permanency option is more appropriate;

(2) If appropriate, request that the Office of Chief Counsel attorney petition the court for a permanency planning hearing to review the child's case plan goal of legal guardianship supported by a guardianship subsidy with the successor guardian; and

(3) Follow 9 CAR § 40-950, subsidized guardianship agreement finalization and 9 CAR § 40-951, guardianship hearing for subsidized guardianship.

(f) The division Subsidized Guardianship Coordinator or designee will:

(1) Consult with the FSW, FSW Supervisor, and Area Director as to whether a subsidized guardianship arrangement with the initial relative or fictive kin guardians

(i.e., reunification) or the successor guardian is in the child's best interest or if another permanency option is more appropriate; and

(2) Follow 9 CAR § 40-950, subsidized guardianship agreement finalization, 9 CAR § 40-951, guardianship hearing for subsidized guardianship, and 9 CAR § 40-952, annual subsidized guardianship program review, as appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-952. Appeals.

If the family wishes to appeal a decision regarding their subsidized guardianship agreement, the Division of Children and Family Services Subsidized Guardianship Coordinator or designee will:

(1)(A) Direct the family to 25 CAR pt. 34 for information on administrative hearings if questions from the family are received.

(B) Instructions regarding how to request an administrative hearing are included on CFS-435-H: Notice of Modification or Termination to Subsidized Guardianship Agreement; and

(2) Keep the family and Adoption Manager or designee informed to any further proceedings related to the appeal request.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-953. Resumption of services post-termination and reinstatement of parental rights.

(a) **Overview.**

(1) Given that behavior change and the work of change is a part of the child welfare system's daily challenge, the Division of Children and Family Services recognizes that there may be parents who previously had their parental rights terminated, but at a later point in time significantly alter the life circumstances that contributed to the removal of their children and the subsequent termination.

(2) These parents may qualify for resumption of services as described in the policy below.

(3) Based on the outcome of the resumption of services, the court may then consider reinstatement of parental rights.

(4) Resumption of services and a subsequent reinstatement of parental rights may provide additional permanency options for children in foster care, particularly for youth who have been in the foster care system for an extended period of time without finding a permanent family.

(b) **Initial eligibility**.

(1)(A) The Department of Human Services, the division, or an attorney ad litem may file a motion to resume services for a parent whose parental rights were previously terminated.

(B) Resumption of services may be considered if the child:

(i) Is currently in the custody of the department;

(ii) Is not in an adoptive placement, preadoptive placement, or under another permanent placement and there is some evidence that the child is not likely to achieve permanency within a reasonable period of time as viewed from the child's perspective; or

(iii) Was previously adopted, appointed a permanent guardian, or placed in the permanent custody of another individual and the adoption, guardianship,

or custodial placement was disrupted or otherwise dissolved.

(2)(A) In addition, at least three (3) years must have passed between the date the order terminating parental rights was entered and the date a motion to resume services on behalf of that parent is filed.

(B) The three-year waiting period may be waived by the court if it is in the best interest of the child.

(C) It must also be determined that the parent in no way interfered with the child's ability to achieve permanency prior to the consideration of resumption of services.

(c) **Assessment.**

(1)(A) If all of the criteria above are met, the agency must then assess whether the parent and child are appropriate candidates for resumption of services before the division requests to file a motion to resume services.

(B) This will be determined, at a minimum, through:

(i) An initial walk-through of the parent's home to identify any safety factors or risk concerns;

(ii) Discussions with the parent, child, parties to the case, and relevant stakeholders (e.g., child's therapist, child's teacher, etc.); and

(iii) The completion of a home study.

(2) The home study will include background checks to identify current issues and differentiate between current maltreatment and criminal issues versus issues occurring prior to the termination of parental rights.

(3)(A) Through the assessment above, it must be determined that the parent is appropriate at the time of filing the motion for resumption of services.

(B) The division Area Director approval must be obtained prior to moving forward with a petition for resumption of services.

(4) When determining whether to grant or deny a motion to resume services, the court will consider:

(A) Efforts made by the division to achieve adoption or other permanent placement for the child, including any barriers preventing permanency from being

achieved;

(B) Current status of the parent, including the extent to which the parent has remedied any conditions that led to the termination of parental rights (TPR);

(C) Willingness of the parent to participate in services offered; and

(D) The child's wishes regarding resumption of contact, visitation, or placement with the parent.

(d) **Resumption of services.**

(1)(A) If an order granting a motion for resumption of services is entered, a staffing will be held within thirty (30) days.

(B) An updated Child and Adolescent Needs and Strengths (CANS) assessment and corresponding case plan will also be developed within thirty (30) days.

(C) Extensive services or supports should not be required to establish parental fitness.

(D) Rather, services and supports offered through a case plan for resumption of services will be designed to help facilitate the re-establishment of the parent-child bond.

(E) Examples may include regular visitation and family counseling.

(F) Such services and supports will be put in place through the case plan in an effort to work toward a reinstatement of parental rights, if appropriate, and, ultimately, a stable and permanent reunification.

(2) If multiple counties have been involved over the life of a case that is deemed appropriate for resumption of services, the applicable division Area Directors will collaborate to determine which county will serve as primary regarding the development, execution, and oversight of the case plan.

(3)(A) A parent will not be named as a party to a motion filed for resumption of services, but the parent will have the right to be heard at a hearing on the motion.

(B) The court may order the parent to pay for some or all of the costs associated with the court-ordered family services.

(e) **Reinstatement of parental rights.**

(1)(A) Based on the outcome of the resumption of services, the court may

then consider reinstatement of parental rights, as appropriate.

(B) Services to the family must continue for at least one hundred eighty (180) days before the department or an attorney ad litem may file a petition to reinstate parental rights.

(C) A petition to reinstate parental rights will be filed in the circuit court that had jurisdiction over the petition to terminate parental rights.

(D) Parental rights may be reinstated if the court finds by clear and convincing evidence that:

(i) Reinstatement of parental rights is in the best interest of the child; and

(ii) There has been a material change in circumstance for the parent since TPR.

(2) If parental rights are reinstated, the case will remain open until the child has resided with the parent for at least six (6) months.

(3)(A) An order reinstating parental rights restores all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including custody, control, and support of the child.

(B) However, an order reinstating parental rights does not vacate or affect the validity of a previous order terminating parental rights.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-954. Resumption of services post-termination.

(a) The Family Service Worker will:

(1) Determine if the juvenile qualifies for a motion for resumption of services

(see initial eligibility above);

(2) Contact the parent who is the subject of the motion for resumption of services and determine if the parent is fit by:

(A) Conducting a walk-through of the family home and identifying any safety factors or risk concerns;

(B)(i) Discussing the motion for resumption of services and determine if the parent is willing to participate in the resumption of services.

(ii) Detail for the parent the financial and logistical implications for the parent if the parent agrees to a motion for resumption of services;

(C) Identifying any evidence that the parent engaged in conduct that interfered with the child's ability to achieve permanency;

(D) Identifying any barriers to placement of the juvenile in the parent's home and determining if the barriers may be remedied with limited assistance from the Department of Human Services; and

(E) Determining whether the parent has remedied the conditions that existed at the time of the termination of his or her parental rights;

(3)(A) Consult with County Supervisory staff and Area Director to obtain the Division of Children and Family Services position on appropriateness of resumption of services based on information gathered.

(B) Area Director approval must be obtained in writing prior to moving forward with a petition for resumption of services;

(4) Complete a home study on the parent who is the subject of the motion for resumption of services;

(5) Provide the completed home study to the Office of Chief Counsel and request that the attorney take action to file a motion for resumption of services; and

(6) Upon receipt of a written order to resume services to the parent:

(A) Update the CANS assessment with input from the:

(i) Family;

(ii) Parties to the case; and

(iii) Other stakeholders;

(B) Develop a case plan with input from the:

(i) Family;

(ii) Parties to the case; and

(iii) Other stakeholders;

(C) Hold a staffing within thirty (30) days of the date on which the order granting a motion for resumption of services is entered to review the CANS and case plan and discuss other relevant information related to the resumption of services;

(D) Complete visits to the parent's home as outlined in 9 CAR § 40-818 until parental rights have been re-established or the resumption of services has been dismissed by the court and the juvenile has returned to a licensed out-of-home placement;

(E) Complete a court report and provide to all parties seven (7) business days prior to each hearing;

(F) Attend review hearings every ninety (90) days until the court has closed the court case; and

(G) Monitor the case for a minimum of six (6) months prior to recommending reinstatement of parental rights.

(b) The FSW Supervisor will:

(1) Participate in internal staffing with FSW and Area Director to determine if a motion to resume services is in the juvenile's best interest based on information presented during the staffing; and

(2) Ensure all the division court reports demonstrate best interest for the juvenile.

(c) The Area Director will:

(1) Participate in internal staffing with FSW and FSW Supervisor to determine if a motion to resume services is in the juvenile's best interest based on information presented during the staffing; and

(2) Provide a best interest determination in writing upon conclusion of the staffing.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

9 CAR § 40-955. Reinstatement of parental rights.

(a) The Family Service Worker will:

(1) Seven (7) business days prior to any hearing on the motion, provide the parent, parent's counsel, attorney ad litem, court-appointed special advocate, and any other parent to the petition with a written report that includes:

(A) The efforts made by the Department of Human Services to achieve adoption or another permanent placement for the child, including any barriers to the adoption or permanent placement of the child;

(B) The extent to which the parent who is the subject of the petition has complied with the case plan and order of the court as of the date on which services were ordered to be resumed;

(C) The impact of the resumed services on the parent and on the health, safety, and well-being of the child; and

(D) Recommendations of the department.

(2) Monitor the family for at least six (6) months after a reinstatement of parental rights has been granted to ensure a successful reunification.

(b) The FSW pervisor supervisor will:

(1) Ensure the Division of Children and Family Services maintains consistent contact with the family while the juvenile is placed in the parent's home; and

(2) Ensure all the division court reports are provided to the parties timely and demonstrate best interest for the juvenile.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"04/2018"

Subpart 10. Services Accountability

9 CAR § 40-1001. Internal review and administrative hearing process.

(a) Determination of certain adverse actions as defined below shall be subject to an internal review process.

(b) Decisions made by the Director of the Division of Children and Family Services regarding an internal review are final and are not appealable.

(c) Appeals of decisions regarding child maltreatment are not subject to internal review and will be considered only through the appeals and hearings process.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2009"

9 CAR § 40-1002. Internal review of adverse action.

(a) The internal review process is as follows:

(1) The individual who is the subject of an adverse action may request verbally or in writing an internal review from the appropriate manager or administrator;

(2) The manager or administrator will review the request and forward it with a recommendation to the appropriate Assistant Director for review within ten (10) business days of receipt of request and any supporting materials;

(3) The Assistant Director will notify the applicant in writing of the decision of the review within ten (10) business days of receiving the request; and

(4) If the decision is unfavorable to the individual, the Assistant Director will inform the individual that he or she has fifteen (15) business days in which to submit a written appeal to the Director of the Division of Children and Family Services.

(b)(1) The Director of the Division of Children and Family Services will notify the individual within ten (10) business days of the appeal decision.

(2) This is a final action and is not appealable.

(c) Actions subject to internal review are:

(1) Closure of a foster home due to any circumstance;

(2) Removal of a child from the foster home without appropriate cause and/or or without appropriate notice;

(3) Failure by the division to share appropriate information with foster parents;

(4) Failure by the division to provide necessary support to foster parents;

(5) Failure by the division to keep the terms of the initial written agreement with the foster home (CFS-462: Initial Foster Home Agreement and CFS-462A: Foster Home Agreement Addendum);

(6) Denial of a home study, including ICPC, which results in a decision not to open the home of any relative within the third degree of kinship;

(7) Denial of an adoption application;

(8) Denial of name removal from Child Maltreatment Central Registry after one (1) year; and

(9) Additionally, an age-appropriate child or his or her attorney ad litem on his or her behalf may appeal a change in his or her out-of-home placement according to 9 CAR § 40-820.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2013"

9 CAR § 40-1003. Appeals and hearings of unfavorable decisions.

(a)(1) Certain unfavorable decisions may be appealed through the appeals and hearings process.

(2) Actions which may be appealed are:

(A) True child maltreatment determinations;

(B) Denials of adoption subsidies; and

(C) Denials or modifications of guardianship subsidies.

(b)(1) An individual must request an administrative hearing within thirty (30) calendar days of receiving a notice of an unfavorable decision from the Division of Children and Family Services.

(2) The appeal must be made in writing to:

Department of Human Services
Office of Appeals & Hearings
P.O. Box 1437, Slot 101
Little Rock, AR 72203

(c)(1) The Appeals and Hearing Section will notify the division when an appeal has been filed.

(2) Upon receiving notice of an appeal, the following entities will immediately prepare a file and make it available to the petitioner, any representative, the Office of Chief Counsel attorney, and the Appeals and Hearings Section:

(A) In child maltreatment-related appeals: Child Maltreatment Central Registry;

(B) In adoption subsidy denials: Adoptions Unit; and

(C) In guardianship subsidy denials or modifications: Foster Care Unit (Permanency Specialist).

(d) At least ten (10) days prior to the administrative hearing, the alleged offender and the department will share any information with the other party the party intends to introduce into evidence at the hearing that is not contained in the record.

(e)(1) The Appeals and Hearings Section will send a notice of hearing which contains the time, date, and place of the hearing and the name of the hearing officer who will conduct the hearing.

(2) The hearing will be held by telephone if neither party requests that the hearing be conducted in person.

(3) If the hearing is held in person, the location will be in an office of the department nearest to the petitioner's residence unless the administrative law judge determines that the hearing will be conducted via video teleconference.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2013"

9 CAR § 40-1004. Appeals and hearings of true child maltreatment decisions.

(a)(1) The Appeals and Hearings Section will notify the Division of Children and Family Services that an appeal has been filed.

(2) The Division of Children and Family Services investigator responsible for the case will:

(A) Prepare an investigative file immediately; and

(B) Make it available to:

(i) The petitioner;

(ii) Any representative;

(iii) The Office of Chief Counsel attorney; and

(iv) The Appeals and Hearings Section.

(b)(1) At least ten (10) days prior to the administrative hearing, the alleged offender and the Department of Human Services will share any information with the other party the party intends to introduce into evidence at the hearing that is not contained in the record.

(2) Additionally, if any child served with a subpoena to be a witness in an administrative hearing is a party to an open dependency-neglect case, the child's attorney ad litem will be provided a copy of the subpoena.

(c)(1) The Appeals and Hearings Section will send a notice of hearing which contains the time, date, and place of the hearing and the name of the hearing officer who will conduct the hearing.

(2) The hearing will be held by telephone if neither party requests that the hearing be conducted in person.

(3) If the hearing is held in person, the location will be in an office of the department nearest to the petitioner's residence unless the administrative law judge determines that the hearing will be conducted via video teleconference.

(d)(1) Upon receipt of notice that a true child maltreatment determination is the subject of an appeal, the Division of Children and Family Services investigator and the Division of Children and Family Services Supervisor or Crimes Against Children Division investigator and Crimes Against Children Division supervisor (as appropriate), Office of Chief Counsel attorney and the Area Director will consult to review the evidence used to establish the true determination and ascertain the impact of any subsequent events of the case after the determination was made.

(2) If the consultation reveals no merit for defending the true finding, the Area Director will complete the CFS-313: Office of Chief Counsel Review of Administrative Hearing Investigative Determination and provide a copy to the:

(A) County Supervisor;

(B) Office of Chief Counsel attorney; and

(C) Assistant Director of Field Operations.

(3) The Office of Chief Counsel attorney will inform Appeals and Hearings of

the decision not to defend.

(4) The CFS-313 will be included in the investigative file.

(5) If the consultation reveals merit for defending the true finding, the appropriate office/unit must designate a representative who must be familiar with the circumstances leading to the adverse decision and must be able to summarize the pertinent aspects of the situation and present the documentation to support the basis for the findings.

(6) The representative will be able to answer questions posed by the petitioner or the hearing officer relative to the issue and should be prepared to cross-examine witnesses.

(e)(1) The department must notify the hearing officer and respondent of the status of any proceeding of the juvenile division of the circuit court if the child maltreatment at issue in the administrative hearing proceeding is also an issue in the juvenile division of the circuit court proceeding.

(2) The notice may include issues such as:

(A) Whether a seventy-two-hour hold was exercised on the victim;

(B) Whether the child was released; or

(C) If a petition for emergency custody or dependency-neglect was dismissed.

(f)(1) Office of Chief Counsel will assign an attorney to represent the investigative agency at the hearing only if the petitioner has an attorney.

(2) If the petitioner appears at the hearing with an attorney without having first notified the department, the investigator shall ask for a continuance so that an Office of Chief Counsel attorney may be appointed.

(g) If the petitioner fails to appear for the hearing and does not contact the Appeals and Hearings Section prior to the date of the hearing, the appeal will be dismissed.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1005. Regular administrative hearing process.

(a)(1) A Hearing Officer from the Appeals and Hearings Section will conduct the hearing in an informal but orderly manner.

(2) The Hearing Officer will explain the hearing procedure.

(b) The petitioner may be accompanied by friends or other persons and may be represented by a:

(1) Friend;

(2) Legal counsel; or

(3) Other designated representative.

(c) The hearing officer may not review material prior to the hearing unless the material is also made available to the petitioner or his or her representative.

(d) The representative will read the administrative hearing statement and will then present the Department of Human Services case, which includes introducing evidence and questioning witnesses subpoenaed to the hearing as well as cross-examining the petitioner's witnesses.

(e)(1) After completion of the Division of Children and Family Services case, the petitioner's case will be presented.

(2) This includes the opportunity to:

(A) Present witnesses;

(B) Advance arguments;

(C) Offer additional evidence;

(D) Question the agency representative; and

(E) Confront and cross-examine witnesses.

(3) Questioning of all parties will be confined to the issues involved.

(f) In all cases, the petitioner will be advised of the right to judicial review in the

event of an adverse ruling.

(g)(1) The ALJ may amend an investigative determination during (but not after) an administrative hearing to conform with the evidence presented.

(2) If the alleged offender could not reasonably infer the amended investigative determination from the investigative record and information submitted by the division, the ALJ may grant a request for continuance to the alleged offender.

(h)(1) The hearing officer will prepare a hearing decision based on a comprehensive report of the proceedings.

(2) The format will consist of an introduction, findings of fact, conclusions of law, and a decision.

(3) Final administrative action must be completed within one hundred eighty (180) calendar days from the receipt of the appeal by the Appeals and Hearings Section with the following exceptions:

(A)(i) The one hundred eighty-day limit will not apply if upon request of any party a stay is granted as permitted pursuant to Arkansas Code § 12-18-801 et seq.

(ii) The administrative law judge may stay the case upon a showing by any party that there is an ongoing criminal or delinquency investigation regarding the occurrence that is the subject of the child maltreatment report; and

(B)(i) If a criminal or delinquency proceeding is filed regarding the occurrence that is the subject of the child maltreatment report and a request for a stay is accompanied by the written notification of the date the criminal or delinquency proceeding was filed by a party, the administrative hearing shall be stayed for a period of not more than one (1) year from the date the criminal or delinquency proceeding is filed.

(ii) The stay shall be lifted and the case set for a hearing upon the earlier of:

(a) A petition and showing by any party that there is good cause to conduct the administrative hearing before the conclusion of the criminal or delinquency proceeding;

(b) The final disposition of the criminal or delinquency

proceeding; or

(c) The expiration of one (1) year from the date the criminal or delinquency proceeding was filed.

(iii) A stay granted per the rules described above may be extended after the one-year expiration upon a written notice from the requesting party that the criminal or delinquency proceeding is still ongoing.

(iv)*(a)* It is the duty of the petitioner to report the final disposition of the criminal or delinquency proceeding to the department Office of Appeals and Hearings for a stay as described above.

(b) The case shall be dismissed and the petitioner's name placed on the Child Maltreatment Central Registry if the petitioner fails to provide a file-marked copy of the final disposition of the criminal or delinquency proceeding within thirty (30) days of the entry of the final disposition.

(i) Delays in completing the administrative hearing that are attributable to either party shall not count against the limit of the one hundred eighty (180) days if the administrative law judge determines that good cause for the delay is shown by the party requesting the delay and the request for delay is made in writing and delivered to the department Office of Appeals and Hearings and all other parties.

(j) Failure to complete the hearing process in a timely fashion shall not deprive the department or a court reviewing the child maltreatment determination of jurisdiction to make a final agency determination or review a final agency determination pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(k)(1) If a court of competent jurisdiction adjudicates a question that is an issue to be determined by the department Office of Appeals and Hearings, the prevailing party to the judicial adjudication who is also a party to the administrative adjudication shall file a certified copy of the judicial adjudication with the office.

(2) The office shall determine whether and to what extent the judicial adjudication has preclusive effect on the administrative adjudication by applying the principles of claim preclusion and issue preclusion.

(3) The office shall not readjudicate any precluded issue.

(4) If the judicial adjudication is modified or reversed, the office shall determine whether and to what extent any issue in the administrative adjudication remains precluded and shall schedule a hearing with respect to any matter that is no longer precluded.

(l)(1) The decision becomes final unless appealed and subsequently overturned in a court of law.

(2) Upon request by the petitioner, the division shall provide a list of persons who were told previously that the report was "True".

(3) The Family Service Worker will provide a copy of the administrative hearing order upon request by a subject of the report.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1006. Expedited hearing process.

(a)(1) If the alleged offender requests a hearing, the Division of Children and Family Services may then request an expedited hearing if:

(A) The alleged offender is engaged in child-related activities or employment or is employed or a volunteer with persons with disabilities, persons with mental illness, or elderly persons; and

(B) Those persons are at risk of harm because of the alleged offender's employment or volunteer activities.

(2) The division will notify the alleged offender using certified mail within three (3) business days of the request via the CFS-233-T: Child Maltreatment Expedited Hearing Notice to Alleged Offender that an expedited hearing has been requested.

(3) The alleged offender will have five (5) days from receipt of the notice of

the request to object to the request to expedite the administrative hearing.

(4) The alleged offender must notify the Department of Human Services in writing via mail, fax, or email of his or her objection.

(b)(1) The Area Director or Crimes Against Children Division Area Manager will determine if the request for the expedited hearing should be submitted to the Office of Appeals and Hearings.

(2) The request for the expedited hearing should be made using the CFS-232-T EH: Expedited Hearing Request.

(3) If approved for an expedited hearing, Office of Appeals and Hearings will notify the alleged offender of the date of the hearing.

(c)(1) If approved for an expedited hearing, the investigator shall provide the alleged offender with a complete copy of his or her file.

(2) The department may charge:

(A) A reasonable fee not to exceed ten dollars ($10.00) for researching, copying, or mailing records from a child maltreatment investigative file; and

(B) A reasonable fee for reproducing copies of electronic media, such as audio tapes, video recordings, compact discs or DVDs, and photographs.

(3) However, no fee may be charged to a person who is indigent.

(d)(1) The investigator shall document when the file was made available to the alleged offender.

(2) The file is considered to have been made available when notification is made to the offender or his or her attorney that a copy of the investigative record is available for pickup at the department office in the county in which the alleged offender resides or in the department office in the county designated by the alleged offender or his or her attorney.

(e)(1) The expedited hearing may not be held until thirty (30) days have elapsed since the division made available to the alleged offender a complete copy of his or her file.

(2) The alleged offender may waive the requirement for the thirty-day wait period.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "DVD" means digital video disc.

This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1007. Preliminary administrative hearing.

(a) If the Division of Children and Family Services is unable to notify the alleged offender of the investigation determination, the Area Director may request a preliminary hearing using the CFS 232-T PH to allow provisional placement of the alleged offender's name in the Child Maltreatment Central Registry.

(b) The Area Director will determine if the request for the preliminary hearing should be submitted to the Department of Human Services Office of Appeals and Hearings.

(c) The division must prove:

(1)(A) That it diligently attempted to notify the alleged offender of the investigative determination.

(B) This means that the division used a reasonable degree of care to discover the alleged offender's whereabouts and notify the alleged offender.

(C) Documentation would include proof that a process server was unsuccessful in locating the alleged offender; and

(2) That a child, an elderly person, or a person with a disability or mental illness may be at risk of maltreatment.

(d)(1) The division representative must tell the ALJ if there is any criminal action pertaining to the investigation.

(2) A preliminary administrative hearing shall proceed even if:

(A) There is an ongoing criminal or delinquency investigation regarding the occurrence that is the subject of the child maltreatment investigation; and

(B) Criminal or delinquency charges are filed or will be filed regarding the occurrence that is the subject of the child maltreatment investigation.

(e) At the preliminary hearing, the ALJ will determine whether there is a prima facie case that:

(1) The offender committed child maltreatment, that is, whether the evidence, if not contradicted, is sufficient to support a judgment that the allegations are true; and

(2) A child, an elderly person, or a person with a disability or mental illness may be at risk of maltreatment.

(f)(1) If the ALJ determines that there is a prima facie case, the division will provisionally place the offender's name in the Child Maltreatment Central Registry.

(2) The division will make notification of the determination to persons as described in 9 CAR § 40-1506, notices that offender's name will be placed in the Child Maltreatment Registry.

(3) The division will continue to attempt to notify the alleged offender using the CFS-292-N: Notice of Name Placement on Central Registry to Offender no less frequently than once a year for no fewer than three (3) years from the date the name is placed on the Child Maltreatment Central Registry.

(4) After three (3) years, no further contact will be made and the alleged offender's name will provisionally remain on the Child Maltreatment Central Registry.

(g)(1) Within thirty (30) days of receiving notice of the determination of his or her listing in the Child Maltreatment Central Registry, the offender may request a hearing as outlined in the notice.

(2) If the offender fails to request a regular administrative hearing within thirty (30) days of receipt of the notice of the investigative determination, the ALJ may determine that the provisional designation is removed and the offender's name be officially placed in the Child Maltreatment Central Registry.

(h)(1) If the ALJ determines that there is no prima facie case, the division will not place the alleged offender's name in the Child Maltreatment Central Registry.

(2) The division will continue to provide notice to the alleged offender using the CFS-232-T1: Notice to Alleged Adult Offender of True Maltreatment Investigative Determination of the true investigation hearing and the opportunity for a regular administrative hearing no less frequently than once a year for no fewer than three (3) years from the date the name is placed on the Child Maltreatment Central Registry.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

9 CAR § 40-1008. Investigative file for the administrative hearing.

(a) The file prepared for the hearing will contain all information obtained during the course of the investigation.

(b)(1) The office that prepares the investigative file will present evidence to support the decision that is the subject of disagreement.

(2) For a hearing request based on a child maltreatment investigation report, the file will contain a copy of the:

(A) CFS-6001: Referral Information Report;

(B) CFS-212-A: Notice of Child Maltreatment Allegation to Alleged Offender;

(C) CFS-384-LEA: Notification to LEA;

(D) CFS-320: Administrative Hearing Statement; and

(E) CFS-232-T1: Notice to Alleged Adult Offender of True Maltreatment Investigative Determination.

(c)(1) A copy of the return receipt verification (green card) or documentation of delivery by a process server must also be attached to the file.

(2) The CFS-313: Office of Chief Counsel Review of Administrative Hearing

Investigative Determination will be included with the investigative file if the agency has decided that the true child maltreatment determination will not be defended.

(d)(1) The CFS-320: Administrative Hearing Statement will summarize the nature of the complaint, a summary of the Child Maltreatment Investigation, and the decision.

(2) The CFS-320: Administrative Hearing Statement, however, is not evidence.

(3) Complete documentation will be required in the investigative file to support the administrative hearing statement.

(e) If the investigative file prepared is incomplete the ALJ may grant a continuance and direct the Division of Children and Family Services to make diligent inquiry and obtain the missing information and provide it to the offender.

(f)(1) County staff will have ten (10) calendar days to respond to a request from the Child Maltreatment Central Registry for a copy of the investigative file.

(2) The investigative file shall include any copies of pictures, audio tapes, and video tapes that are a part of a particular file.

(g)(1) County staff must complete the CFS-320: Administrative Hearing Statement upon request by Central Registry for the investigative file.

(2) Staff will route the CFS-320: Administrative Hearing Statement directly to Appeals and Hearings, with a copy to the Office of Chief Counsel attorney, if an attorney is assigned.

(3) If the name of the assigned Office of Chief Counsel attorney is not known, the copy of the CFS-320: Administrative Hearing Statement should be sent to the County Legal Operations Coordinator.

(4) The individual requesting the hearing (the petitioner) will be advised by the Appeals and Hearings Section that the petitioner has ten (10) calendar days to provide a witness list.

(h)(1) An Office of Chief Counsel attorney may provide assistance in case preparation even if the attorney will not be at the hearing.

(2) The Office of Chief Counsel will provide relevant information pertinent to the defense of the determination on CFS-313: Office of Chief Counsel Review of Administrative Hearing Investigative Determination.

(i) Department of Human Services employees will be expected to attend hearings and present testimony without the benefit of a subpoena and will be notified by the Appeals and Hearings Section of their required presence at the hearing.

(j)(1) The division representative will be notified of any witness requested by the petitioner requesting the hearing.

(2) The division representative will have five (5) calendar days from receipt of this notice to request a for-rebuttal witness list.

(k)(1) The department's Office of Chief Counsel, will issue the subpoenas under the authority of Arkansas Code §§ 20-18-802 and 20-76-201.

(2) The Chief Counsel of the department may designate someone to sign subpoenas issued for administrative hearings on child maltreatment.

(l) Administrative hearing decisions and all exhibits submitted at the hearing are confidential and may be used or disclosed only as provided in Arkansas Code § 12-18-809.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1009. Request for investigation review by Child Maltreatment Investigations Oversight Committee.

(a)(1) Pursuant to Arkansas Code § 10-3-3202 the Division of Children and Family Services will work with the Child Maltreatment Investigations Oversight Committee to promote transparency and efficiency concerning procedures of child maltreatment investigations in the state.

(2) The Child Maltreatment Investigations Oversight Committee will review and evaluate the conduct of child maltreatment investigations completed by the Division of

Children and Family Services or the Crimes Against Children Division and service delivery to children and families involved in an investigation of child maltreatment.

(3) The Child Maltreatment Investigations Oversight Committee meetings are closed and confidential.

(b) Upon receipt of a request from the Child Maltreatment Investigations Oversight Committee to review an investigation, the CPS Manager will:

(1) Report the review request to the Assistant Director of Prevention and Reunification and the Assistant Director of Field Operations immediately;

(2) Immediately (within twenty-four (24) hours or as required by the Director of the Division of Children and Family Services) print out the prosecuting attorney report pertaining to the identified investigation and inquire for additional information from the following entities, as appropriate:

(A) Area Director

(B) Office of Chief Counsel;

(C) Office of Appeals and Hearings;

(D) Quality Assurance Unit; and

(E) Central Registry Unit;

(3) Document the request for review of the investigation from the Child Maltreatment Investigations Oversight Committee in the contact screen for each investigation to be reviewed;

(4) Within forty-eight (48) hours, ensure that the investigation which is to be subject to the review meets criteria for review by ensuring the investigation:

(A) Is a completed investigation of child maltreatment with no pending due process; and

(B) Is not associated with a pending dependency-neglect case;

(5) Request updated information from the counties as needed;

(6)(A) Schedule a meeting with the Division of Children and Family Services staff to ascertain information involving facts surrounding the investigation determination if needed.

(B) The meeting will include the following:

(i) FSW;

(ii) County Supervisor/Investigative Supervisor;

(iii) Area Director;

(iv) Assistant Director of Field Operations or designee;

(v) The Director of the Division of Children and Family Services or designee; and

(vi) Appropriate staff as needed;

(7) Work with the chair of the Child Maltreatment Investigations Oversight Committee as appropriate in coordinating logistics and necessary reports for presentation to the Child Maltreatment Investigations Oversight Committee;

(8)(A) Prepare a report of the identified information as well as all records related to the investigation review request and send the information to the members of the Child Maltreatment Investigations Oversight Committee at least ten (10) calendar days prior to a scheduled Child Maltreatment Investigations Oversight Committee meeting.

(B) This information may be sent as hard copies or electronically; and

(9) Prepare a summary of information learned during the review of the investigation by the Child Maltreatment Investigations Oversight Committee to include any Department of Human Services actions and recommendations for the Child Maltreatment Investigations Oversight Internal Review Committee prior to each meeting of the review Child Maltreatment Investigations Oversight Committee.

(c) The Director of the Division of Children and Family Services, or designee, will:

(1) Participate in the Child Maltreatment Investigations Oversight Committee Meetings; and

(2) Ensure reports made by the Child Maltreatment Investigations Oversight Committee to the Senate Committee on Children and Youth and the House Committee on Aging, Children and Youth, Legislative and Military Affairs do not contain information that identifies the subject of a report of child maltreatment or the person who made the report of child maltreatment.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"03/2018"

9 CAR § 40-1010. Disclosure of information on overturned true findings of child maltreatment to the Legislative Oversight Committee.

(a) Pursuant to Arkansas Code § 12-18-713 the Department of Human Services, Division of Children and Family Services and the Crimes Against Children Division will submit two (2) reports annually on true investigative determinations that are administratively or judicially overturned to the Senate Committee on Children and Youth and the House Committee on Aging, Children and Youth, Legislative and Military Affairs.

(b) Twice annually, on or about June 1 and December 1, the Director of the Division of Children and Family Services or designee will:

(1)(A) Request a report summarizing by county the true investigative findings which have been overturned administratively or judicially for the reporting period.

(B) This report will include:

(i) County of report origin;

(ii) Number of true reports with the finding overturned judicially; and

(iii) Number of true reports with the finding overturned administratively;

(2) Provide the completed report to the Senate Committee on Children and Youth and the House Committee on Aging, Children and Youth, Legislative and Military Affairs; and

(3) Respond to subsequent requests for information from the Senate Committee on Children and Youth and the House Committee on Aging, Children and Youth, Legislative and Military Affairs pertaining to the reported overturned true findings by county.

(c) **Information not to be released.**

(1) Concerning true findings which have been overturned administratively or judicially, the department shall not release:

(A) Information identifying the individual family or child;

(B) Information identifying the individual investigator; and

(C) Any information if release of such information would identify the individual investigation or individual investigative parties.

(2) The Quality Assurance Unit will:

(A)(i) Compile a report twice annually, on or about June 1 and December 1, summarizing by county the true investigative findings which have been overturned administratively or judicially for the reporting period.

(ii) This report will include:

(a) County of report origin;

(b) Number of true reports with the finding overturned judicially; and

(c) Number of true reports with the finding overturned administratively;

(B) Provide the completed report to the director, or designee; and

(C) Respond to subsequent requests for information from the director, or designee, pertaining to the reported overturned true findings by county.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"03/2018"

9 CAR § 40-1011. Child near fatalities and fatalities.

(a)(1) Although an infrequent occurrence, near fatalities and fatalities of children

who are receiving services or who have recently received services from the Division of Children and Family Services do occur.

(2) Fatalities may occur due to an illness or other medical condition, as a result of child neglect or abuse, or because of a nonchild maltreatment related accident.

(3) Regardless of the cause of a near fatality or fatality, these events are extremely traumatic for the family of the child, the foster family (if applicable), Division of Children and Family Services staff, and service providers.

(4) Division of Children and Family Services staff will be supportive and helpful to those who have had a meaningful and/or legal relationship with the child including relatives and foster parents.

(5) Division of Children and Family Services leadership and management will:

(A) Recognize the importance of appropriately supporting staff who worked directly with the child; and

(B) Encourage those staff members to seek appropriate, individualized services as needed.

(b)(1) Pursuant to Arkansas Code § 12-18-103 a near fatality (also referred to in DHS Policy 1090 as a serious injury) means an act that, as certified by a physician, places a child in serious or critical condition.

(2) As such, the Division of Children and Family Services will rely on the involved medical facility's designation of the child's condition in determining if a particular incident meets the criteria of near fatality as defined by law.

(c) The Division of Children and Family Services county office will immediately, within one (1) hour, notify the appropriate Area Director or designee and the Assistant Director of Field Operations or designee and initiate action to ensure the safety of other children in the home when the Division of Children and Family Services becomes aware of a child near fatality or fatality that may be the result of maltreatment and:

(1) The child or sibling of the child is a subject of a pending child maltreatment investigation or a child maltreatment investigation within the preceding twenty-four (24) months;

(2) The child or sibling of the child is a client in any open supportive or

protective services or out-of-home case; and

(3) The child or sibling of the child was a client in a supportive, protective services, or out-of-home case during the previous twenty-four (24) months.

(d)(1) The Assistant Director of Field Operations or designee will immediately, within one (1) hour, notify the Director of the Division of Children and Family Services who will notify the Department of Human Services Deputy Director, the Office of Chief Counsel of the Department of Human Services (per DHS Policy 1090) and the Department of Human Services' Director of Communications.

(2) As such, the Division of Children and Family Services will not automatically issue press releases on cases of child near fatality or fatality related to maltreatment but will respond to requests for information as they are received in consultation with the Department of Human Services' Director of Communications.

(e) The Division of Children and Family Services will ensure that DHS Policy 1090 adhered to regarding all near fatalities and fatalities.

(f) When a fatality occurs in an open out-of-home case, the Division of Children and Family Services will respectfully assist and support the parents in making funeral arrangements or take other actions deemed necessary by the Area Director.

(g)(1) Because quality improvement and accountability guides the work of the Division of Children and Family Services, an internal team of Division of Children and Family Services staff will meet following a child fatality that meets at least one (1) of the criteria established in subsection (c) of this section, above.

(2) The team will review the case and identify systemic issues, public health concerns, and where practice could have been improved in that particular case in an effort to prevent future child fatalities and near fatalities.

(h)(1) Following a Division of Children and Family Services internal near fatality or fatality review, the Division of Children and Family Services will also be responsible for holding a meeting with the External Child Near Fatality and Fatality Review Team to review any certified near fatality or fatality for which there is a current child death investigation (i.e., related to child maltreatment).

(2) The External Child Near Fatality and Fatality Review Team will conduct a

comprehensive review of the circumstances leading to the near fatalities and fatalities of children who have been reported through the Child Abuse Hotline.

(3) Based on the findings of the reviews, the External Child Near Fatality and Fatality Review Team will develop recommendations and actions, as appropriate, to be implemented to prevent other child near fatalities and fatalities.

(i) The External Child Near Fatality and Fatality Review Team will be comprised of the following members:

(1) The Director of the Division of Children and Family Services or designee;

(2) The Division of Children and Family Services Assistant Director of Field Operations or designee;

(3) The Division of Children and Family Services FSW Supervisor designated by the Director of the Division of Children and Family Services;

(4) The Division of Children and Family Services FSW Investigative Supervisor designated by the Director of the Division of Children and Family Services;

(5) Commander of the Crimes Against Children Division or designee;

(6) Executive Director of the Arkansas Child Abuse/Rape/Domestic Violence Commission or designee;

(7) Children's Advocacy Centers of Arkansas Director or designee;

(8) Arkansas State CASA Association Director or designee;

(9) Arkansas Children's Hospital's Team for Children at Risk and Arkansas Children's House Director or designee;

(10) Dependency-Neglect Attorney Ad Litem Director or designee;

(11) Office of Chief Counsel Director or designee;

(12) The Governor's Senior Advisor for Child Welfare;

(13) A member of the Arkansas Child Death Review Panel;

(14) A member of the Department of Health;

(15) A member appointed by the Chair of the Subcommittee on Children and Youth of the House Committee on Aging, Children and Youth, Legislative and Military Affairs; and

(16) A member appointed by the Chief Justice of the Supreme Court.

(j)(1) This External Child Near Fatality and Fatality Review Team will meet at least quarterly each calendar year.

(2) The committee meetings will be closed and information discussed at the meeting will be confidential.

(3) Individuals who are not members of the External Child Near Fatality and Fatality Review Team will not be allowed to attend or otherwise participate in a committee meeting unless a majority of the members vote to request the attendance or participation of a noncommittee member.

(k) These external reviews will provide the Division of Children and Family Services and other stakeholders involved with child serving systems with an additional opportunity to collaboratively review the facts surrounding the fatality and accurately assess child deaths, work to improve systemic issues, address public health concerns, and determine recommendations to improve practice and work together as a system to prevent future child fatalities and near fatalities.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2018"

9 CAR § 40-1012. Near fatality of child.

(a) In the case of a child near-fatality the county office will:

(1) Report maltreatment or any suspected maltreatment to the Child Abuse Hotline immediately if it has not already been called into the Child Abuse Hotline; and

(2) Notify the Area Director of the near fatality of the child immediately.

(b) The Area Director will:

(1)(A) Schedule and hold the internal review of the near fatality within fourteen (14) calendar days (or earlier upon the Director of the Division of Children and

Family Services' request) with the division staff to ascertain information involving facts surrounding the near fatality.

(B) The meeting will include:

(i) FSW;

(ii) County Supervisor/Investigative Supervisor;

(iii) Area director;

(iv) Child Protective Services (CPS) Manager;

(v) Assistant Director of Field Operations or designee; and

(vi) Other appropriate staff as needed.

(C) The individuals above may participate in the meeting by phone as appropriate;

(2) Immediately (within twenty-four (24) hours or as required by the Director of the Division of Children and Family Services) prepare CFS-307: Near Fatality/Fatality Disclosure Case Briefing Summary and the CFS-309: Children and Family Services Internal Review of Child Near Fatality/Death and fax or email it to the CPS Manager; and

(3) Ensure the completion of CFS-306: Documentation of Child's Medical Episode Related to Near Fatality by the child's attending physician or other attending medical personnel who treated the child during the child's medical episode.

(c) The CPS Manager will:

(1) Review the completed CFS-307: Near Fatality/Fatality Disclosure Case Briefing Summary and forward it to:

(A) Assistant Director of Field Operations or designee;

(B) Assistant Director of Prevention and Reunification or designee; and

(C) Quality Assurance Unit Manager or designee;

(2) Request updated information from the counties as needed;

(3) Review the CFS-306: Documentation of Child's Medical Episode Related to Near Fatality;

(4) Work with the chair of the External Child Near Fatality and Fatality Review Team as appropriate in coordinating logistics and necessary reports for the quarterly

External Child Near Fatality and Fatality Review Team; and

(5)(A) Prepare the list of all certified near fatalities as well as all records related to the child and send the information to the members of the External Child Near Fatality and Fatality Review Team at least fourteen (14) calendar days prior to a scheduled committee meeting.

(B) This information may be sent as hard copies or electronically.

(d) The Quality Assurance Unit will enter information regarding near fatalities related to maltreatment on the Child Fatality/Near Fatality Disclosure Log.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2018"

9 CAR § 40-1013. Disclosure of information on near fatalities.

(a) **Pending.** Upon request, the Division of Children and Family Services shall release the following information via the Department of Human Services Director of Communications to the general public when an investigation is pending on a report of a near fatality of a child to the Child Abuse Hotline:

(1) Age, race, and gender of the child;

(2) Date of the child's near fatality;

(3) Allegations or preliminary cause of the near fatality;

(4) County and type of placement of the child at the time of incident leading to the near- fatality;

(5) Generic relationship of the alleged offender to child;

(6) Agency conducting the investigation;

(7) Legal action taken by the department; and

(8) Services offered or provided by the department presently and in the past.

(b) **True reports.** Upon request, the department shall release the following information via the department's Director of Communications to the general public when the investigative determination is true on a report of a near fatality of a child:

(1) A nonidentifying summary of any previous child maltreatment investigations;

(2) A nonidentifying summary of the current child maltreatment investigation, including:

(A) The nature and extent of the child's present and past injuries; and

(B) Medical information pertaining to the incident;

(3) Information about criminal charges, if known; and

(4) Any action taken by the department or the Crimes Against Children Division of the Division of Arkansas State Police, including personnel action and licensing action.

(c) **Unsubstantiated reports.** Upon request the department shall release the following information via the department's Director of Communications to the general public when the investigative determination is unsubstantiated on a report of a near fatality of a child:

(1) A nonidentifying summary of any previous child maltreatment investigations;

(2) A nonidentifying summary of the current child maltreatment investigation;

(3) Information about criminal charges, if known; and

(4) Any action taken by the department or the Crimes Against Children Division, including personnel action and licensing action.

(d) **Information not to be released.** Concerning the near fatality of a child, the department shall not release:

(1) Information on siblings of the child;

(2) Attorney-client communications; or

(3) Any information if release of such information would jeopardize a criminal investigation.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1014. Child fatality notification.

(a) The Crimes Against Children Division will:

(1) Investigate child maltreatment allegations according to established procedures;

(2)(A) If safety concerns are identified, immediately contact the Division of Children and Family Services to conduct the remaining components of the health and safety assessment (safety planning and investigation risk assessment) as appropriate.

(B) The Division of Children and Family Services will then be assigned as the secondary investigator on that particular investigation;

(3) Coordinate with law enforcement and relinquish their case to them if the possibility of criminal charges is involved and law enforcement prefers to assume responsibility;

(4) Initiate needed affidavits for legal action;

(5) Keep the county office advised of the status of the investigation, including initial notification when appropriate; and

(6) Share all information with the parents, offender, and victim, as appropriate.

(b) The Family Service Worker assigned as secondary to the investigation will:

(1) If the Crimes Against Children Division contacted the Division of Children and Family Services to conduct the remaining components of the health and safety assessment (safety planning and investigation risk assessment), immediately ascertain the safety of other children remaining under the care of the alleged offender and develop a protection plan or pursue protective custody, as appropriate;

(2) Provide any services to the family as needed;

(3) Enter all contacts with the family into the CHRIS; and

(4) Share all information about prior contacts with the family with agency staff and law enforcement who are investigating the case.

(c) In the case of a fatality of a child the county office will:

(1) Immediately notify the Area Director by phone;

(2) Report maltreatment or any suspected maltreatment to the Child Abuse Hotline immediately if it has not already been called into the Child Abuse Hotline;

(3) Immediately, within twenty-four (24) hours or as required by the Director of the Division of Children and Family Services, complete CFS-307: Child Near Fatality/Fatality Disclosure Case Briefing Summary and CFS-308: Child Fatality Review Packet Checklist and forward the CFS-307 and CFS-308 and all required documents listed on CFS-308 to the CPS Manager;

(4) Place copies of CFS-307 and CFS-308 in the child's record;

(5) If the child fatality is a result of a prior near fatality event and the fatality occurred more than twenty-four (24) hours after the near fatality, ensure the completion of CFS-306-A: Documentation of Near Fatality Subsequently Resulting in Fatality by the child's attending physician or other attending medical personnel who treated the child during the child's medical episode;

(6) Fax or email the completed CFS-306-A: Documentation of Original Near Fatality Subsequently Resulting in Fatality to the CPS Manager within seventy-two (72) hours of the fatality, if applicable; and

(7) Place a copy of the CFS-306-A in the child's record, if applicable.

(d) The Area Director or designee will:

(1) Notify the Assistant Director of Field Operations or designee immediately by phone;

(2) Ensure employee immediately, within twenty-four (24) hours or as required by the Director of the Division of Children and Family Services, completes and forwards completed CFS-307: Child Near Fatality/Fatality Disclosure Case Briefing Summary and forward the CFS-307 to the CPS Manager;

(3)(A) Complete the CFS-308: Child Fatality Review Packet Checklist within

seven (7) calendar days of the fatality and fax or email both forms along with all required documents listed on the CFS-308 to the CPS Manager.

(B)(i) Schedule and hold an Internal Fatality Review meeting with the Division of Children and Family Services staff within fourteen (14) calendar days of the fatality in order to ascertain the facts surrounding the child's death.

(ii) The meeting will include:

(a) FSW;

(b) Crimes Against Children Division Investigator;

(c) County Supervisor/Investigative Supervisor;

(d) Crimes Against Children Division Supervisor;

(e) Area Director;

(f) CPS Manager;

(g) Assistant Director of Field Operations, or designee;

(h) Assistant Director of Prevention and Reunification, or designee; and

(i) Any other needed staff as appropriate; and

(4) Expeditiously provide all other information requested by CPS Manager.

(e) The Assistant Director of Field Operations or designee will:

(1) Notify the Department of Human Services' Director of Communications by phone within one (1) hour of occurrence if the incident is expected to receive media attention;

(2)(A) Discuss relevant details of the case with the department Director of Communications to determine the type of information that will be released to the media.

(B) Pertinent information that can be released will include disclosable information as provided by the department disclosure policy (DHS Policy Group 4009).

(C) Any information concerning siblings or attorney-client communications will not be released; and

(3) Remain in direct contact with appropriate field personnel in order to develop a clear understanding of the circumstances surrounding the incident.

(f) The CPS Manager will:

(1) Review CFS-307: Child Near Fatality/Fatality Disclosure Case Briefing Summary;

(2) Forward the CFS-307: Child Near Fatality/Fatality Disclosure Case Briefing Summary to the:

(A) Assistant Director of Field Operations or designee;

(B) Assistant Director of Prevention and Reunification or designee;

(C) Director of the Division of Children and Family Services;

(D) Department's Director of Communications; and

(E) Department's Deputy Director over the Division of Children and Family Services;

(3) Review the CFS-308: Child Fatality Review Packet Checklist and all required documents listed on CFS-308;

(4) Enter information regarding the fatality on the Child Death Log and Child Death Public Disclosure Log;

(5) Serve as the point of contact for follow-up and subsequent briefings of the assistant directors, Director of the Division of Children and Family Services, and department deputy director;

(6) Work with the chair of the External Child Near Fatality and Fatality Review Team as appropriate in coordinating logistics and necessary reports for the quarterly External Child Near Fatality and Fatality Review Team; and

(7)(A) Prepare the list of all child deaths as well as all records related to the child and send the information to the members of the External Child Near Fatality and Fatality Review Team at least fourteen (14) calendar days prior to a scheduled committee meeting.

(B) This information may be sent as hard copies or electronically.

(g) The Quality Assurance Unit will enter information regarding fatalities related to maltreatment on the Child Fatality/Near Fatality Disclosure Log.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"07/2018"

9 CAR § 40-1015. Disclosure of information on fatalities.

(a) **Pending.** Upon request, the Division of Children and Family Services shall release the following information via the Department of Human Services Director of Communications to the general public when an investigation is pending on a report of a fatality of a child to the Child Abuse Hotline:

(1) Age, race, and gender of the child;

(2) Date of the child's death;

(3) Allegations or preliminary cause of death;

(4) County and type of placement of the child at the time of incident leading to the child's death;

(5) Generic relationship of the alleged offender to child;

(6) Agency conducting the investigation;

(7) Legal action taken by the department;

(8) Services offered or provided by the department presently and in the past; and

(9) Name of the child.

(b) **True reports.** Upon request, the department shall release the following information via the department Director of Communications to the general public when the investigative determination is true on a report of a fatality of a child:

(1) A summary of previous child maltreatment investigations, but the disclosure shall not include the name of the offender of offenders;

(2) A summary of the current child maltreatment investigation including:

(A) The nature and extent of the child's present and past injuries;

(B) Medical information pertaining to the death; and

(C) The name of the offender if due process has been satisfied or the offender has been arrested;

(3) All relevant risk and safety assessments completed on the child;

(4) Information about criminal charges, if known; and

(5) Any action taken by the department or the Crimes Against Children Division, including personnel action and licensing action.

(c) **Unsubstantiated reports.** Upon request, the department shall release the following information via the department Director of Communications to the general public when the investigative determination is an unsubstantiated report of a fatality of a child:

(1) A summary of previous child maltreatment investigations, but the disclosure shall not include the name of the alleged offender or offenders;

(2) A summary of the current child maltreatment investigation including medical information pertaining to the death, however, the name of the alleged offender shall not be disclosed;

(3) All relevant risk and safety assessments completed on the child;

(4) Information about criminal charges, if known; and

(5) Any action taken by the department or the Crimes Against Children Division, including personnel action and licensing action.

(d) **Information not to be released.** Concerning the fatality of a child, the department shall not release:

(1) Information on siblings of the child;

(2) Attorney-client communications; and

(3) Any information, if release of such information would jeopardize a criminal investigation.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1016. Driver's license and insurance reimbursement programs for youth in out-of-home placement.

(a)(1) In accordance with Arkansas Code § 27-16-702(a)(1)(D), the Director of the Division of Children and Family Services may authorize an employee of the Department of Human Services or the foster parent to sign the youth's application.

(2) The youth in out-of-home placement shall be able to meet all state requirements listed in Arkansas Code § 27-16-804 (restricted licenses, learner's licenses, and intermediate licenses):

(A) Be at least sixteen (16) years of age;

(B) Have tested uncorrected visual acuity of at least 20/40 or 20/50 with corrective lenses;

(C) Have tested field of vision of at least one hundred forty degrees (˚041) with two (2) functioning eyes or one hundred five degrees (˚501) with one (1) functioning eye; and

(D) Be free of a serious accident and conviction of a serious traffic violation in the last twelve (12) months.

(b) In addition, the Division of Children and Family Services must be provided with the following information that will be used to determine whether the director will authorize an employee or foster parent to sign for a driver's license for a youth in out-of-home placement:

(1) Delinquent acts and history of behavior;

(2) A minimum 2.0 [C] grade point average, or record of regular attendance and satisfactory progress in an adult education program, or documentation of compliance with an individual education plan;

(3) The Division of Children and Family Services review and acceptance of the driving history and record of violations over the last twelve (12) months;

(4) Placement stability;

(5) Enrollment of the youth in the Chafee Foster Care Transitional Youth Services by the FSW; and

(6) Other pertinent information deemed necessary.

(c) **Driver's license privilege.**

(1)(A) Participating in the Division of Children and Family Services Foster Care Driver's License Program and Driving Insurance Reimbursement Program is a privilege, not an entitlement, requiring compliance with both Arkansas state laws and Division of Children and Family Services policy.

(B) Any youth, sixteen (16) years of age or older, who is in department custody, may request permission to obtain a driver's license and be reimbursed for insurance.

(C) Completion of a driver's education course is not a requirement.

(D) If a foster parent elects to have the youth participate in one, Division of Children and Family Services funds may be utilized to pay enrollment or tuition fees on a reimbursement basis.

(2) Youth who remain in care past the age of eighteen (18) years of age, do not need approval to apply for a driver's license.

(3) In order to maintain the privilege of driving, the youth in out-of-home placement shall abide by the following:

(A) Operate a motor vehicle on public streets and highways only when all passengers are wearing their seat belts;

(B) Not use a cell phone or any other electronic device that may distract the driver; and

(C) Not transport anyone under eighteen (18) years of age without licensed adult (twenty-one (21) years of age or older) supervision in the vehicle.

(4) The Division of Children and Family Services will monitor the following items when a youth in out-of-home placement has a driver's license:

(A) Youth's driving record;

(B) Youth's behavior;

(C) Youth's school performance; and

(D) Compliance with state law and the Division of Children and Family Services requirements as outlined above.

(5)(A) The director may cancel the authorization for the driver's license.

(B) State law permits the Arkansas Office of Driver's Services to cancel, revoke, or suspend any learner's permit or driver's license upon request.

(6) If at any time, the youth in out-of-home placement no longer meets all of the state and Division of Children and Family Services requirements, the Division of Children and Family Services may take possession of the youth's learner's permit or driver's license until all requirements are again met.

(7)(A) If a youth enters foster care with a valid learner's permit or driver's license from any state, maintaining possession of that license is subject to meeting all state and Division of Children and Family Services requirements.

(B) The youth must complete the CFS-388: Application and Agreement to Participate in Division of Children and Family Services Foster Care Driver's License Program with all of the required attachments indicating that the youth already has a driver's license and submit the form, attachments as outlined above, and a copy of the driver's license.

(C) Upon review, the director or designee may determine that the youth can continue to drive and will authorize the youth to keep possession of the driver's license.

(D) If the director or designee denies the request to keep the driver's license, the FSW shall obtain possession of the driver's license and the youth will not be able to drive.

(E) The Division of Children and Family Services will notify the appropriate state Office of Driver Services to cancel the driver's license.

(d) **Insurance reimbursement program for youth in out-of-home placement.**

(1) Any motor vehicle a youth operates must be owned by the foster parent or the youth.

(2) A youth in out-of-home placement must be insured to drive a specific

vehicle before he or she is allowed to operate that motor vehicle, and the youth must be included as a driver on the insurance policy for that specific vehicle.

(3) The insurance policy must meet minimum Arkansas motor vehicle liability standards or Division of Children and Family Services requirements, if higher, as determined by the Office of Chief Counsel.

(4)(A) The Division of Children and Family Services will reimburse foster parents for the actual amount of the additional cost of adding a specific youth in foster care as a driver on the insurance policy for a specific motor vehicle.

(B) The foster parent must present documentation from the insurance company of the actual amount of the additional cost to qualify for reimbursement.

(5)(A) If the youth owns his or her own car, he or she must present documentation of the cost of the policy that insures them.

(B) The Division of Children and Family Services will reimburse the youth for the actual amount of the insurance policy.

(6) All reimbursement requests will be reviewed and approved by the director or designee.

(e) **Requirements for participation in the insurance reimbursement program.**

(1)(A) The minimum requirements to participate in the Division of Children and Family Services Insurance Reimbursement Program are approval and permission to participate in the Driver's License Program for youth in out-of-home placement.

(B) When participating in the Insurance Reimbursement Program, the youth agrees to give the Division of Children and Family Services authority to:

(i) Take possession of their driver's license;

(ii) Suspend driving and insurance reimbursement privileges; and

(iii) Petition the Revenue Division for revocation of their driver's license.

(2)(A) The Division of Children and Family Services will monitor the driving record, behavior, and school performance of all youth in department custody who have elected to participate in the Division of Children and Family Service Insurance

Reimbursement Program.

(B) If at any time, the youth no longer meets all of the state and the Division of Children and Family Services requirements, the Division of Children and Family Services may elect to discontinue reimbursing the foster parents or the youth for the actual costs of insuring the youth.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"09/2010"

9 CAR § 40-1017. Driver's license program for youth in out-of-home placement.

(a) The Family Service Worker will:

(1) Provide written notification to every youth in out-of-home placement sixteen (16) years of age or older, that they may submit a request to the Division of Children and Family Services for permission to apply for an Arkansas learner's or intermediate driver's license as appropriate;

(2) Advise the youth and foster parents of criteria to be considered by the division in determining whether to approve a request for an Arkansas learner's or intermediate driver's license;

(3) Provide the youth with a copy of CFS-388: Application & Agreement to Participate in DCFS Foster Care Driver's License Program;

(4) Assist or arrange for the foster parent or other adult approved by the County Supervisor or Area Director to assist the youth in completing and submitting the CFS-388 along with all required documentation which includes:

(A) A written statement addressing placement stability;

(B)(i) The youth's report card or school transcript showing cumulative and

current GPA, or record of regular attendance and satisfactory progress in an adult education program, or documentation of compliance with the individual education plan.

(ii) The youth making the application must obtain the appropriate official document from the appropriate authority;

(C)(i) Statement of behavior history.

(ii) The FSW must review and write a statement concerning the youth's behavior over the last six (6) months;

(D)(i) Proof of participation in Transitional Youth Services (TYS) program.

(ii) The FSW must attach proof of the youth's enrollment in the TYS program.

(iii) If the youth is not already enrolled, the FSW must enroll the applicant and attach proof of enrollment;

(5) If requested, assist the youth and foster parent in:

(i) Finding a state approved driver's education program; and

(ii) Arranging division reimbursement funding for any reasonable driver's education program cost if the location is reasonably accessible by the youth;

(6) Compile the original CFS-388: Application & Agreement to Participate in DCFS Foster Care Driver's License Program and supporting documents into a packet and document in CHRIS;

(7) Submit the packet to the County Supervisor;

(8)(A) Ensure the youth is enrolled in the TYS.

(B) If not, the FSW must enroll the youth in TYS;

(9) File a copy of the CFS-388: Application & Agreement to Participate in DCFS Foster Care Driver's License Program and supporting documents in the foster care record and provide copies to the foster parent and youth;

(10) If approved, assist or arrange for the foster parent to take the youth to an Arkansas revenue office; and

(11) Document in CHRIS.

(b) The youth in out-of-home placement will:

(1) Inform the foster parent or FSW that he or she wants to obtain an

Arkansas learner's or intermediate driver's license;

(2) Meet all division criteria before applying for a learner's or intermediate driver's license; and

(3)(A) Work with the FSW, foster parent, and/or other approved adult to complete and submit the CFS-388 and supporting documents.

(B) It will be the youth's responsibility to request and obtain the appropriate academic records and documents.

(c) The foster parents will:

(1) Document on the CFS-388: Application & Agreement to Participate in DCFS Foster Care Driver's License Program if they are willing to support the youth's application for an Arkansas learner's or intermediate driver's license;

(2) Assist the youth in completing and submitting the CFS-388: Application & Agreement to Participate in DCFS Foster Care Driver's License Program and supporting documents, if needed;

(3) Transport the youth to and from the state-approved driver's education program as needed; and

(4) Sign any needed documents not signed by the FSW or youth.

(d) The division County Supervisor will:

(1) Review the CFS-388: Application & Agreement to Participate in DCFS Foster Care Driver's License Program and supporting documents for completeness and prepare the request packet; and

(2) Forward the request packet to the Area Director for review and certification.

(e) The division Area Director will:

(1) Review the packet, certify its completeness and accuracy and recommend approval or disapproval;

(2) Document the approval or disapproval in CHRIS; and

(3) Forward the packet to Central Office Vehicle Safety Coordinator.

(f) The division Vehicle Safety Coordinator will:

(1) Check the youth's driving record, if any, and document any traffic

violations and/or at- fault accidents; and

(2) Add appropriate documentation to the packet and forward it to the Director of the Division of Children and Family Services or designee for approval or disapproval.

(g) The director or designee will:

(1) Review the packet and approve or disapprove the youth's request; and

(2)(A) If the youth is approved to obtain a driver's license, the director or designee will send a notarized letter designating the person authorized to sign the application.

(B) The youth will take the notarized letter to the Arkansas driver's license office.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "GPA" means grade point average.

9 CAR § 40-1018. Insurance reimbursement program for youth in out-of-home placement.

(a) The Family Service Worker will:

(1) Check if the youth has a valid driver's license and submit required documentation;

(2) Advise the youth and foster parents that motor vehicle liability insurance is required before the youth is allowed to operate any specific motor vehicle;

(3) Advise the youth and the foster parents that they may submit CFS-389: Application & Agreement to Participate in DCFS Foster Care Driving Insurance Reimbursement Program along with all required documentation which includes:

(A) A copy of the foster parents' insurance policy listing the youth as an insured driver and delineating the actual additional premium increase; or

(B) A copy of the youth's insurance policy including the actual cost;

(4) Ensure that everyone has completed their part of the CFS-388: Application & Agreement to Participate in DCFS Foster Care Driver's License Program and CFS-389:

Application & Agreement to Participate in DCFS Foster Care Driving Insurance Reimbursement Program, that the original forms are filed in the foster case record, and that the youth and foster parents each have a copy;

(5) Ensure that the youth and the foster parents understand the program and answer any questions they may have;

(6) Submit the completed CFS-388: Application & Agreement to Participate in DCFS Foster Care Driver's License Program and CFS-389: Application & Agreement to Participate in DCFS Foster Care Driving Insurance Reimbursement Program to the County Supervisor for review and approval;

(7) Ensure that a copy of proof of insurance regarding each specific vehicle is received from the foster parents or the youth, if they own their own car, and filed in the case file before the youth is allowed to operate that motor vehicle;

(8) Ensure that the foster parents or youth are reimbursed for the actual amount of additional costs of adding a specific youth to the insurance policy of a specific motor vehicle;

(9) Monitor the youth's driving record for current and continued compliance with all state and Division of Children and Family Services requirements; and

(10) Take possession of and hold the youth's driver's license, as soon as practical, following any ticketed traffic violation, at-fault motor vehicle accident, or other legal problem involving the youth as a driver, or whenever the youth no longer meets the state's requirements.

(b) The youth in out-of-home placement will:

(1) Sign the CFS-389: Application & Agreement to Participate in DCFS Foster Care Driving Insurance Reimbursement Program;

(2) If the youth owns a vehicle, provide the division with proof of insurance covering the youth and his or her specific vehicle;

(3) If the youth owns a vehicle, provide the division with documentation of the actual additional cost of insuring the youth when claiming reimbursement;

(4) Carry his or her driver's license when operating any motor vehicle;

(5) Follow all state motor vehicle laws;

(6) Abide by all division guidelines and program requirements; and

(7) Immediately report any traffic ticket received or motor vehicle accident in which they are involved in as a driver to the foster parents or FSW and give their license to the foster parent or FSW until the situation can be reviewed.

(c) Youth who remain in care past eighteen (18) years of age will work with their FSW or TYS sponsor to complete the required documents.

(d) The foster parents will:

(1) Insure the youth for each specific motor vehicle that he or she will be allowed to operate;

(2) Provide the division with proof of insurance covering the youth on each specific vehicle;

(3) Provide the division with documentation of the actual additional costs of insuring the youth when claiming reimbursement;

(4) Immediately report to the FSW any traffic ticket received by the youth or motor vehicle accident in which they are involved as a driver; and

(5) Immediately take possession of the youth's driver's license and give it to the FSW as soon as practical, following any ticketed traffic violation or motor vehicle accident involving the youth as a driver.

(e) The division County Supervisor will:

(1) Review CFS-388: Application & Agreement to Participate in DCFS Foster Care Driver's License Program and CFS-389: Application & Agreement to Participate in DCFS Foster Care Driving Insurance Reimbursement Program and supporting documents for completeness;

(2) Forward the packet to the Area Director for review and certification; and

(3) Notify the Director of the Division of Children and Family Services' office when a youth's driver's license has been taken because of a ticketed traffic violation, at-fault motor vehicle accident, or other legal problem involving the youth as a driver so that the youth's driving privileges can be reviewed.

(f) The division Area Director will:

(1) Review the packet, certify its completeness and accuracy, and recommend

approval or disapproval;

(2) Document the approval or disapproval in CHRIS; and

(3) Forward the packet to the central office.

(g) The Director of the Division of Children and Family Services or designee will review the packet and approve or disapprove the youth's request.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Subpart 11. Special Services

9 CAR § 40-1101. Home studies and supervision.

(a)(1) The Division of Children and Family Services will conduct home studies or provide supervision services when ordered by the juvenile division of the circuit court.

(2) The division will also conduct home studies for cases in which the division is a party of the litigation and for Interstate Compact on the Placement of Children (ICPC), Arkansas Code § 9-29-201 et seq., cases.

(3) A court order to conduct a home study is not required for cases in which the division is a party to the litigation or for ICPC cases.

(4) Requests for home studies on adoption cases requested from other states will only be conducted through ICPC.

(b) The division will not be required to conduct a court ordered home study, investigation, or supervision related to private litigation cases (i.e., divorce, custody) unless the court has first determined that the responsible party is indigent, and the investigation, study, or supervision is to take place within the State of Arkansas.

(c)(1) The following policy statements are in accordance to the Revised Uniform Adoption Act, Arkansas Code § 9-9-201 et seq.

(2) The Department of Human Services or any licensed social worker shall conduct a home study before placement of a child in the home of the petitioner.

(3) Home studies on non-Arkansas residents may also be conducted by the person or agency in the same state as the person wishing to adopt as long as the

person or agency is authorized under the law of that state to conduct home studies for adoptive purposes.

(d) The department shall not be ordered by any court to conduct an adoptive home study, unless:

(1) The court has first determined the responsible party to be indigent or the child to be adopted is the subject of an open dependency-neglect case and the goal of the case is adoption; and

(2) The person to be studied lives in the State of Arkansas.

(e) The home study shall be prepared and submitted in conformity with regulations promulgated pursuant to the Child Welfare Agency Licensing Act, Arkansas Code § 9-28-401 et seq., as stated in PUB-04.

(f) The home study shall not be waived when the case is a fast-track adoption of a Garrett's Law baby under Arkansas Code § 9-9-702.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2011"

9 CAR § 40-1102. Guidelines for a home study.

(a) Upon receipt of a request for a home study, the Services Supervisor will:

(1) Assign the case to a Family Service Worker or, if it is a request to conduct a nonrelative independent adoption study, forward the request to the Adoption Unit, Slot S565 for assignment to an Adoption Specialist; and

(2) Contact the Office of Chief Counsel if an in-state court ordered home study request is received on a private litigation case that does not contain indigent language indicating the responsible party is unable to pay.

(b) The Family Service Worker will:

(1)(A) Contact the family by letter to advise of the request to conduct a home study.

(B) Enclose with the letter the appropriate forms to be completed by the family.

(C) The family will be advised to return the following completed forms to the worker within seven (7) working days:

(i) CFS-316: Request for Child Maltreatment Central Registry Check;

(ii) CFS-342: State Police Criminal Record Check;

(iii) Three (3) positive, confidential references; and

(iv) Home study report;

(2)(A) Contact the family a second time if the family has not returned the completed forms within the seven-day period.

(B) Advise the family that the completed forms must be returned within five (5) working days.

(C) If the family does not respond to the second request, the worker will send a letter to the requesting party advising that the family has not responded to efforts to conduct the home study.

(D) Completion of the home study should not proceed if the information forms are not completed.

(E) Any assistance in completion of the forms should be provided or arranged by the worker in situations of physical or mental disabilities or illiteracy;

(3) Contact the family to schedule a home interview upon receipt of the completed forms;

(4)(A) Interview the family.

(B) Follow the guidelines as outlined in policy for completing a home study.

(C) The home study is to be completed within thirty (30) working days of receipt of the request.

(D) Notify the requesting party if additional time will be required to complete the home study;

(5)(A) Forward the completed home study with a cover letter to the court and the requesting party if different.

(B) A copy of the home study will be retained in the county office case file; and

(6) In CHRIS:

(A) Enter the family as a resource by completing the general information screen, status screen, and homes screens; and

(B) Close the family as a resource on the general information screen upon completion of the home study.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-1103. Content of the home study.

(a) **Purpose of the home study.** Discuss the basis of the action and primary persons involved.

(b) **Motivation**. The individual's or individuals' motivation for opening his or her home.

(c) **Household composition**. The full legal names of everyone residing in the home, birth dates, relationships to one (1) another, and a brief physical description.

(d) **Housing**. Address and location, type of structure, length of time at residence, upkeep and housekeeping standards, future residence plans, and sleeping arrangements.

(e) **Safety hazards.** An assessment of the safety of the home and grounds including:

(1) Water hazards;

(2) Swimming pools;

(3) Hot tubs;

(4) Dangerous pets; and

(5) Other hazardous items/areas.

(f) **Income and expenses.**

(1) Employment history for the last six (6) years (duration, salary, duties/title, degree of job security, hours), other sources of income, monthly living expenses, outstanding debts, and insurance.

(2) A recent check stub and the previous year's income tax return are required to verify income and employment.

(g) **Health**. Current health of each family member, prior illnesses or medical problems, disabilities, clinic or doctor utilized and frequency of use, counseling (when and purpose), and hospitalization for alcohol abuse, drug abuse, or mental illness.

(h) **Education**. Family members' educational attainment, future educational plans, parenting classes attended, child's school, child's teacher (verification with school personnel on how the child is doing, academically and behaviorally), child's current school grades, child's educational functioning, any school problems or successes experienced by the child.

(i) **Childcare arrangements or plans**. Current arrangement or proposed arrangement as it relates to their working hours and income.

(j) **Child rearing practices**. Purpose of discipline, correction methods, how they show affection, how they handle stress, allowance, chores, and homework.

(k) **Daily schedule**. Routines, sleeping habits, feeding habits, personal hygiene habits, and consistency with routine.

(l) **Social history**. Highlights and verification regarding action of marriages and divorces, children, relationships' support system, future plans, any significant extended family members not living in the home, and any significant personal, developmental, personality, or legal problems.

(m) **Family activities**. Religious interests, social organizations, activities with children, and family roles.

(n) **Collateral and reference contacts**.

(1) Discuss the results of contacts with the CFS-316: Request for Child Maltreatment Central Registry Check, CFS-342: State Police Criminal Record Check (this check is also required), school, childcare providers, and reference letters for the home study.

(2) Any problems or concerns identified through collateral or reference contacts should be shared when appropriate with the family for clarification and further discussion.

(o) **Impressions, conclusions, and recommendations**. Evaluate the family's situation and ability to provide for a child based on the information obtained during the home study.

(p) **Approval**. If the agency approves the foster parent or parents the agency shall specify in the home study the number, age, sex, and other characteristics of children for whom the home is approved to provide care.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-1104. Supervision record.

The Family Service Worker or Adoption Specialist will:

(1) In CHRIS, document services delivered and activities conducted on the services provided to resource screen in resource; and

(2) Maintain a file containing the court order, correspondence, narrative, and any forms.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Subpart 12. Services to Children of Immigrant Families

9 CAR § 40-1201. Services to children of immigrant families.

(a)(1) There will be special situations when the Division of Children and Family Services will be required to respond to child welfare related emergencies that occur in the immigrant community.

(2) The division may provide needed services to families in the community, including information and referral, supportive, protective, and foster care services to children (birth to seventeen (17) years of age).

(3) Any children at immediate risk of harm or apparently in need of protection will receive the division services, regardless of the immigration status of the child or their parent or parents.

(b)(1) The division staff members are not required to verify any client's citizenship or immigration status.

(2) If a division worker has any reason to suspect that a client is in the United States illegally, the worker will ask the client to verify his or her citizenship or immigration status.

(3) The division staff member will accept the client's documentation or verbal response at face value without further questioning and will document all information provided (documents or verbal statements) regarding the client's citizenship and/or immigration status in CHRIS.

(c)(1) If it is believed that a client child is an undocumented immigrant, the case will be reviewed by the division worker, county supervisor, and Area Director.

(2) If they believe that the child is an undocumented immigrant, they will refer the case to the Special Assistant to the Director of the Division of Children and Family Services.

(3) The Special Assistant to the director will discuss the case with the attorney designated to handle Special Immigrant Juvenile Status (SIJS) cases to determine if the case is appropriate for SIJS.

(4) If the case is appropriate, the Office of Chief Counsel attorney will prepare and submit the SIJS application to the appropriate agency.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"02/2008"

9 CAR § 40-1202. The Division of Children and Family Services response to children of actual or suspected undocumented immigrants.

(a) **Maltreatment reports.** The Division of Children and Family Services will accept a maltreatment report regarding a suspected undocumented immigrant.

(b) **Protective services.**

(1) The Division of Children and Family Services will open a case as appropriate and ask for documentation of the parent and child's birth.

(2) The funding source for services to undocumented immigrants will be state general revenue.

(3) Staff will contact their Area Director to receive approval from the Division of Children and Family Services Administrative Services prior to any purchase of services for suspected undocumented immigrants.

(4) Contact the Division of County Operations and request any available information regarding the identity and citizenship or immigration status of the family members.

(5)(A) If any family members involved in the case are in the United States illegally, the worker will report them through the County Supervisor and Area Director.

(B) The Area Director will discuss the case with the Office of Chief Counsel attorney designated to handle such cases.

(C) The Division of Children and Family Services worker will make every reasonable effort to keep the family together.

(c) **Supportive services.**

(1)(A) Will be available to undocumented immigrants.

(B) Ask the client to verify his or her citizenship or immigration status and accept their documents or verbal statement without further questioning.

(C) If any family member involved in the case is in the United States illegally, report them through the County Supervisor and Area Director.

(D) The Area Director will discuss the case with the Office of Chief Counsel attorney designated to handle such cases.

(2) All requests for exception must go up through the supervisory chain and be

referred to the Director of Division of Children and Family Services for the same processing as a request for alternative compliance (see Appendix F for protocol for requesting an alternative compliance or a policy waiver).

(d) **Foster care.**

(1) Document citizenship status in CHRIS.

(2) Address the issue of resolving alien status in the case plan.

(3) **Judicial proceedings.** If the parent of the child in foster care is deported and it is not in best interest of the child to be returned to the parent and parent's country, the Division of Children and Family Services may request special immigrant juvenile status (SIJS) if the child is an undocumented immigrant.

(4) Hold a staffing to determine if reunification is in the child's best interest or if the child's goal should be:

(A) Another planned permanent living arrangement (APPLA);

(B) Adoption; or

(C) Guardian.

(5)(A) If the child's goal is APPLA, adoption, or guardianship, SIJS must be applied for if the child in care is an undocumented immigrant.

(B) Contact the Area Director for assistance in completing the application for special immigrant juvenile status.

(6) Immigrant status must be verified for Chafee services.

(e) **Adoption**.

(1) A child whose immigration status is in question may be eligible for a state adoption subsidy.

(2) If the child is granted SIJS the child will be Medicaid eligible and may be Title IV-E eligible.

(f) **FINS**. Verify immigrant status on FINS cases when working with immigrant population.

(g) **CHRIS**.

(1)(A) Documenting citizenship in CHRIS is done on the client general information screen for each specific client in a case.

(B) There is a field called citizenship/alienage, which has picklist choices, which are listed below.

(C) To the right of the citizenship/alienage field is a blank box called "alien registration number".

(D) That box is used to input the client's specific alien registration number, if he or she has one.

(2) To select a citizenship/alienage picklist choice and insert an associated alien registration number, the worker must do the following:

(A)(i) Go to the workload toolbar in CHRIS to select case and click on the client button.

(ii) The "select client" box will come up;

(B) Highlight the correct client and click show;

(C) Click on the gen info button, which will bring up the client information screen for that specific client;

(D) The citizenship/alienage picklist field and the alien registration number box are at the bottom of the client information screen in the citizenship grouping; and

(E)(i) Click on the citizenship/alienage picklist field and select the appropriate choice.

(ii) If the client has an alien registration number, type it into the "Alien Registration Number" box.

(iii) Citizenship/alienage (picklist choices):

(a) United States citizen;

(b) Qualified alien; and

(c) Nonqualified alien.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Subpart 13. Child Maltreatment Central Registry

9 CAR § 40-1301. Child Maltreatment Central Registry.

(a)(1) The Child Maltreatment Central Registry is established within the Department of Human Services for the collection of records of cases involving allegations of child maltreatment which are determined to be true pursuant to Arkansas Code § 12-18-901.

(2) The Division of Children and Family Services maintains the statewide Child Maltreatment Central Registry.

(3) Reports made to the division are confidential and may be disclosed only as provided by Arkansas Code §§ 12-18-909 and 12-18-910.

(b)(1) Names of offenders and alleged offenders shall be placed on the Child Maltreatment Central Registry as specified by Arkansas Code § 12-18-903.

(2) Names will be removed automatically or at the request of the offender according to Arkansas Code § 12-18-908.

(c) All requests for Child Maltreatment Central Registry information will be made through the Child Maltreatment Central Registry Unit in the division's Central Office.

(d)(1) The division may charge a reasonable fee, not to exceed ten dollars ($10.00) for research, copying, and mailing records of the investigative files of child maltreatment cases and Central Registry information.

(2) The division may also charge a reasonable fee for reproducing copies of electronic media, such as audio tapes, video recordings, compact discs, or DVDs, and photographs.

(e) No fee will be charged to a:

(1) Nonprofit or volunteer agency that requests searches of the investigative files; and

(2) Person who is indigent.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. "DVD" means digital video disc.

This section as promulgated prior to codification into the Code of Arkansas Rules

provided as follows:

"05/2022"

9 CAR § 40-1302. Placement of name on the child maltreatment central registry.

(a) An offender's name shall be placed in the Child Maltreatment Central Registry in the following cases, as provided by Arkansas Code § 12-18-903:

(1) After notice, the offender eighteen (18) years of age or older at the time the act or omission occurred does not request an administrative hearing within thirty (30) days;

(2) The offender was a child age fourteen (14) to seventeen (17) at the time of the act or omission and the child or his or her legal guardian waived the administrative hearing;

(3) The administrative law judge upheld the investigative determination of true pursuant to a preliminary administrative hearing; and

(4) Upon completion of the administrative hearing process, the Division of Children and Family Services determination of true is upheld.

(b) In addition to the requirements above, the name of an offender will be placed in the Child Maltreatment Central Registry only if the Department of Human Services determines pursuant to Arkansas Code § 12-18-702 that the offender may pose a risk of maltreatment to a vulnerable population that includes without limitation:

(1) Children;

(2) The elderly;

(3) Persons with a disability; and

(4) Persons with a mental health illness.

(c) **Provisional placement.**

(1)(A) An offender's name shall be placed provisionally in the Child Maltreatment Central Registry as specified by Arkansas Code § 12-18-905 when directed by an Administrative Law Judge (ALJ) after the determination of a prima facie

case in a preliminary administrative hearing (refer to 9 CAR §§ 40-1502 and 40-1007).

(B) The alleged offender may request a regular administrative hearing within thirty (30) days of receipt of the notice of the investigative determination.

(C) Failure to do so shall result in a finding by the ALJ that the provisional designation shall be removed and the offender's name shall be officially placed in the Child Maltreatment Central Registry.

(2) If an alleged offender's name is provisionally placed in the Child Maltreatment Central Registry, any disclosure by the Child Maltreatment Central Registry shall include the notation that the name has only been provisionally placed in the Child Maltreatment Central Registry.

(d) **Permanent placement.** Pursuant to Arkansas Code § 12-18-908, an offender shall permanently remain on the Child Maltreatment Central Registry if the:

(1) Adult offender:

(A) Is convicted of a criminal offense for an act or omission that constitutes child maltreatment and for which the offender is named in the Child Maltreatment Central Registry regardless of any subsequent expungement of the offense from the adult offender's criminal record;

(B) Has a conviction for the criminal offense described in subdivision (d)(1)(A) of this section, above, that has not been reversed or vacated; and

(C) Has his or her name placed in the registry for severe maltreatment; or

(2) Offender was a juvenile fourteen to seventeen (14 – 17) years of age, and:

(A) Is convicted of a felony as an adult for an act or omission for which the offender is named in the Child Maltreatment Central Registry, regardless of any subsequent expungement of the felony from the offender's criminal record;

(B) The offender's conviction for the felony described in subdivision (d)(1)(A) of this section, above, has not been reversed or vacated; and

(C) The offender's name is placed in the registry for severe maltreatment.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

9 CAR § 40-1303. Automatic name removal from child maltreatment central registry — Criteria for removal.

(a) The offender's name will be automatically removed from the Child Maltreatment Central Registry for the following types of child maltreatment or types of maltreatment involving the following injury characteristics or other details, as designated by Arkansas Code § 12-18-908, dependent upon the offender having not had a subsequent true report of this type for one (1) year and more than one (1) year having passed since the offender's name was placed on the Child Maltreatment Central Registry:

(1) Educational neglect;

(2) Environmental neglect;

(3) Inadequate clothing;

(4) Inadequate food;

(5) Inadequate shelter; and

(6) Inadequate supervision, children six (6) years of age or older.

(b)(1) Arkansas Code § 12-18-908 allows these to be set at the discretion of the Secretary of the Department of Human Services.

(2) However, these can only be changed through normal promulgation after a special review by the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth (Arkansas Code § 12-18-908).

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

9 CAR § 40-1304. Child Maltreatment Central Registry Review Team.

(a) If the offender's name is not eligible to be automatically removed from the Child Maltreatment Central Registry as described in 9 CAR § 40-1303, the Child Maltreatment Central Registry Review Team shall review removal requests.

(b) The Child Maltreatment Central Registry Review Team shall operate as follows:

(1)(A) The Director of the Division of Children and Family Services will appoint the members of the Child Maltreatment Central Registry Review Team.

(B) The Review Team will be made up of the Division of Children and Family Services central office and field staff and the Crimes Against Children Division.

(C) There will be five (5) members with alternates in case of scheduling conflicts.

(D) A representative of the Office of Chief Counsel may provide legal advice and assistance to the team but will not be a member of the Child Maltreatment Central Registry Review Team;

(2) The Review Team will select an alternating chairperson for each quarter;

(3) The Review Team will determine a regular meeting schedule for the review of any requests that meet all criteria but shall meet no less-frequently than on a quarterly basis;

(4)(A) Review requests must be received sixty (60) days in advance of the review meeting, and all Review Team members will be provided with the case information fifteen (15) days prior to the review team meeting.

(B) All decisions will be by a majority vote of the team members; and

(5)(A) All team decisions will be sent in writing by the Central Registry Manager or designee.

(B) Denials will be sent to the applicants by certified mail within fifteen (15) days of the review team meeting.

(C) Approvals will be sent to the applicants by regular mail within fifteen

(15) days of the review team meeting.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

9 CAR § 50-1305. Name removal from Child Maltreatment Central Registry by an adult offender's request.

(a) **Removal criteria.**

(1) An adult offender is defined as a person age eighteen (18) years or older at the time of the act or omission that resulted in a true finding of child maltreatment.

(2) An adult offender may request his or her name be removed from the Child Maltreatment Central Registry when:

(A) The individual has not had a subsequent true report of this type or type involving the specified injury characteristic or other detail for one (1) year; and

(B) More than one (1) year has passed since the adult offender's name was placed on the Child Maltreatment Central Registry.

(3) However, the adult offender may not request removal from the Child Maltreatment Central Registry if any of the following apply:

(A) The adult offender was placed into the Child Maltreatment Central Registry for any type of child maltreatment that resulted in a child fatality as a direct result of the offender's act or omission;

(B) The adult offender is still involved in an open protective services or foster care case for the type of maltreatment for which he or she was placed into the Child Maltreatment Central Registry; or

(C) The adult offender was placed into the Child Maltreatment Central Registry for any of the child maltreatment type or types involving any of the injury

characteristics or details listed below and his or her parental rights were subsequently terminated either voluntarily or involuntarily:

(i) Abuse with deadly weapon;

(ii) Bone fractures;

(iii) Brain damage/skull fracture;

(iv) Burns/scalding;

(v) Immersion;

(vi) Inadequate supervision, children less than six (6) years of age;

(vii) Interfering with a child's breathing;

(viii) Internal injuries;

(ix) Malnutrition;

(x) Oral sex;

(xi) Poison/noxious substances;

(xii) Presence of illegal substance in child or its mother at time of birth resulting from mother's knowing use of the substance;

(xiii) Sexual exploitation;

(xiv) Sexual penetration;

(xv) Shaking a child age three (3) years of age or younger;

(xvi) Striking a child with a closed fist;

(xvii) Subdural hematoma; and

(xviii) Suffocation.

(4)(A) Arkansas Code § 12-18-908 allows the types of maltreatment that may be considered for removal to be set at the discretion of the Secretary of the Department of Human Services.

(B) However, these can only be changed through normal promulgation after a special review by the House Interim Committee on Aging, Children and Youth, Legislative and Military Affairs and the Senate Interim Committee on Children and Youth, Arkansas Code § 12-18-908.

(5) Finally, per Arkansas Code § 12-18-908, an adult offender shall permanently remain on the Child Maltreatment Central Registry if the:

(A) Adult offender is convicted of a criminal offense for an act or omission that constitutes child maltreatment and for which the adult offender is named in the Child Maltreatment Central Registry regardless of any subsequent expungement of the offense from the adult offender's criminal record;

(B) Adult offender's conviction for the criminal offense as described in subdivision (a)(5)(A) of this section, above, has not been reversed or vacated; and

(C) Adult offender's name is placed in the registry for severe maltreatment.

(b) **Application format for an adult offender.**

(1)(A) An application for name removal from the Child Maltreatment Central Registry shall conform to the following.

(B) The adult offender will submit his or her request to the Director of the Division of Children and Family Services via the CFS-328-A: Request for Name Removal from the Child Maltreatment Central Registry by Adult Offender and shall also submit:

(i) A personal letter describing:

(a) The offender's reason for the removal request;

(b) The events and circumstances surrounding the child maltreatment finding;

(c) The offender's rehabilitation; and

(d) Why the offender does not pose a risk of maltreatment to vulnerable populations, including without limitation, children, the elderly, persons with a disability, and persons with a mental health illness;

(ii) Arkansas Child Maltreatment Central Registry results free from a true finding of the same maltreatment type for the preceding year;

(iii) Child Maltreatment Registry results from the offender's current state of residence and/or any state in which the offender has resided in the preceding year free from a true finding of the same maltreatment type for the preceding year;

(iv) Arkansas Crime Information Center background check results free from child maltreatment-related offense for the preceding one (1) year;

(v) State background check results from the offender's current state

of residence and/or any state in which the offender has resided in the preceding year free from child maltreatment-related offense for the preceding one (1) year;

(vi) Description and documentation (e.g., court records, letter from the adult offender's attorney, probation officer, or prosecuting attorney) of any current pending criminal charges, if applicable; and

(vii) Evidence of the offender's rehabilitation, including, but not limited to:

(a)(1) Documentation proving completion of treatment, remediation, or rehabilitation programs as related to the specific offense if applicable.

(2) For removal requests related to sexual abuse, proof of rehabilitation must include documentation from a licensed mental health professional that:

(A) States that the requestor has participated in therapy with the licensed mental health professional to address the issues related to the sexual abuse offense;

(B) States total length of time the requestor has participated in therapy with the licensed mental health professional to address the issues related to the sexual abuse offense and the frequency of therapy sessions during that period of time;

(C) Indicates whether a sex offender-specific assessment was conducted during the therapy period (e.g., the Vermont Assessment of Sex Offender Risk (VASOR), Clarke Sex History Questionnaire for Males—Revised, Hare Psychotherapy Scale) (note: the use of such an assessment is not necessarily a requirement for removal but the presence or absence of such an assessment will be considered); and

(D) Provides the licensed mental health professional's assessment of the requestor's participation during the therapy period; and

(b)(1) One (1) to three (3) letters of reference from professionals (not to include Division of Children and Family Services employees), employers, spiritual counselors, friends, or family describing the offender's rehabilitation and whether the

offender poses a risk of maltreatment to vulnerable populations, including without limitation, children, the elderly, persons with a disability, and persons with a mental health illness.

(2) No more than one (1) letter of reference can be submitted from a family member.

(2) The Child Maltreatment Central Registry Review Team may select additional, non-child maltreatment-related offenses which prevent name removal from the Child Maltreatment Central Registry.

(c) **Determination of name removal request by an adult offender.**

(1)(A) The Child Maltreatment Central Registry Review Team will consider requests for removal of names from the registry.

(B) In determining whether or not to remove an offender from the Child Maltreatment Central Registry the review team shall consider any relevant evidence, which may include, but is not limited to the following:

(i) The circumstances surrounding the maltreatment;

(ii) The seriousness of the harm caused by the maltreatment to the child or children;

(iii) The probability of the offender engaging in future maltreatment;

(iv) Evidence of the offender's completion of training, rehabilitation, and efforts to learn effective strategies to care for children; and

(v) Any other information that is relevant to the specific offense.

(2) If the child maltreatment type is in the removal-by-request category, and the adult offender has not had a subsequent true report of this type for one (1) year and more than one (1) year has passed since the offender's name was placed on the Child Maltreatment Central Registry, he or she will have a right to a review of the case.

(3) If the review team denies the request-for-removal of the name from the Child Maltreatment Central Registry, the review team shall send a denial letter to the adult offender explaining the reason for denial as it relates to:

(A) The circumstances surrounding the maltreatment;

(B) The seriousness of the harm caused by the maltreatment to the child

or children;

(C) The probability of the offender engaging in future maltreatment;

(D) Evidence of the offender's completion of training, rehabilitation, and efforts to learn effective strategies to care for children;

(E) Any pending criminal charges surrounding the maltreatment; and

(F) Any other information that is relevant to the specific offense.

(4)(A) The adult offender shall wait one (1) year from the date of the request for removal before filing a new petition with the division's requesting the offender's name be removed from the Child Maltreatment Central Registry.

(B) However, if the review team needs additional information from the adult offender in order to make the determination as to whether to remove his or her name from the Child Maltreatment Central Registry, the review team may request that the adult offender provide the additional information without requiring the adult offender to wait an additional year to file a new petition.

(C) The review team shall inform the adult offender in writing of the specific additional information requested.

(D) The adult offender shall have ten (10) calendar days from the date of the request to submit the requested additional information.

(E) If the request is sent via mail, the adult offender shall be given an additional three (3) calendar days to submit the information.

(F) If the requested information is not submitted within the specified timeframe, then the adult offender shall wait one (1) year from the date of the request to file a new petition requesting his or her name be removed from the Child Maltreatment Central Registry.

(5) If the review team denies the request-for-removal of the name from the Child Maltreatment Central Registry, the adult offender may request an administrative hearing within thirty (30) days from the receipt of the division's decision.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

9 CAR § 40-1306. Name removal from child maltreatment central registry by a juvenile offender's request.

(a) **Removal criteria.**

(1) Pursuant to Arkansas Code § 12-18-908, the name of an offender who was a juvenile at the time of the offense shall not be removed from the Child Maltreatment Central Registry if:

(A) The offender is convicted of a felony as an adult for an act or omission that is the same act or omission for which the offender is named in the Child Maltreatment Central Registry regardless of any subsequent expungement of the felony from the offender's criminal record;

(B) The offender's conviction for the felony described in subdivision (a)(1)(A) in this section, above, has not been reversed or vacated; and

(C) The offender's name is placed in the Child Maltreatment Central Registry for severe maltreatment.

(2) However, the name of an offender who was a juvenile at the time of the offense shall be removed from the Child Maltreatment Central Registry, as provided by Arkansas Code § 12-18-908, when:

(A) The juvenile has reached the age of eighteen (18) or more than one (1) year has passed from the date of the act or omission that caused the true finding of child maltreatment and there have been no subsequent acts or omissions resulting in a true finding of child maltreatment; and

(B) The juvenile offender can prove by a preponderance of the evidence that he or she has been rehabilitated.

(b) **Application format for a juvenile offender.**

(1) An application for name removal from the Child Maltreatment Central

Registry shall conform to the following.

(2) The juvenile offender will submit his or her request to the Director of the Division of Children and Family Services via the CFS-328-B: Request for Name Removal from the Child Maltreatment Central Registry by Juvenile Offender and shall also submit:

(A) Child Maltreatment Central Registry results free from a true finding of the same maltreatment type for the preceding year;

(B) Child Maltreatment Registry results from the offender's current state of residence and/or any state in which the offender has resided in the preceding year free from a true finding of the same maltreatment type for the preceding year;

(C) Arkansas Crime Information Center background check results free from child maltreatment-related offense for the preceding one (1) year;

(D) State background check results from the offender's current state of residence and any state in which the offender has resided in the preceding year free from child maltreatment-related offense for the preceding one (1) year; and

(E) Evidence of the offender's rehabilitation, which may include, but is not limited to:

(i) A personal letter from the offender describing his or her rehabilitation;

(ii) Documents proving participation in treatment, remediation, or rehabilitation programs; and

(iii) One (1) to three (3) letters of reference from professionals (not to include Division of Children and Family Services employees), employers, spiritual counselors, friends, or family describing the offender's rehabilitation.

(c) **Determination of name removal request by a juvenile offender.**

(1)(A) The Child Maltreatment Central Registry review team will consider requests for removal of names from the Child Maltreatment Registry.

(B) In determining whether or not to remove a juvenile offender's name from the Child Maltreatment Central Registry, the review team shall consider the following:

(i) Whether the criminal history reveals any convictions as an adult for the same act for which the offender is named in the registry;

(ii) Whether the juvenile offender has reached eighteen (18) years of age, or one (1) year has passed from the date of the act or omission that caused the true finding of child maltreatment;

(iii) There have been no subsequent acts or omissions resulting in a true finding of child maltreatment; and

(iv) The information submitted proves, by a preponderance of the evidence, that the juvenile offender has been rehabilitated.

(2)(A) If the review team denies the request-for-removal of the name from the Child Maltreatment Central Registry, the review team shall send a denial letter to the juvenile offender explaining the reason for denial.

(B) The juvenile offender shall wait one (1) year from the date of the request for removal before filing a new petition with the division requesting the offender's name be removed from the Child Maltreatment Central Registry.

(C) If the review team denies the request-for-removal of the name from the Child Maltreatment Central Registry, the juvenile offender may request an administrative hearing within thirty (30) days from the receipt of the division's decision.

(3)(A) However, if the review team needs additional information from the juvenile offender in order to make the determination as to whether to remove his or her name from the Child Maltreatment Central Registry, the review team may request that the juvenile offender provide the additional information without requiring the juvenile offender to wait an additional year to file a new petition.

(B) The review team shall inform the juvenile offender in writing of the specific additional information requested.

(C) The juvenile offender shall have ten (10) calendar days from the date of the request to submit the requested additional information.

(D) If the request is sent via email, the juvenile offender shall be given an additional three (3) calendar days to submit the information.

(E) If the requested information is not submitted within the specified

timeframe, then the juvenile offender shall wait one (1) year from the date of the request to file a new petition requesting his or her name be removed from the Child Maltreatment Central Registry.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"05/2022"

Subpart 14. Child Maltreatment Notices

9 CAR § 40-1401. Notices regarding child maltreatment.

(a) The Division of Children and Family Services will issue notices regarding child maltreatment allegations, child maltreatment investigative findings, and appeal decisions to all persons pursuant to Arkansas Code § 12-18-703 et seq.

(b) The Division of Children and Family Services will issue notices in such a way as to ensure the rights to due process of the alleged offender and to protect others who may be at risk of harm from the alleged offender.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1402. Notices of allegations of child maltreatment.

Upon receipt of an initial report of child maltreatment, the investigating agency

shall notify the following:

(1)(A) Law enforcement.

(B) **Type of allegation**. Severe maltreatment only.

(C) **What information.**

(i) Name of each alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(D) **When.** Immediately, by telephone.

(E) **Form (optional).** CFS-201-A: Notice of Child Maltreatment Allegation to Law Enforcement and Prosecuting Attorney or CACD-201-A: Notice of Child Maltreatment Allegation to Law Enforcement and Prosecuting Attorney as appropriate;

(2)(A) Prosecuting attorney.

(B) **Type of allegation.** Severe maltreatment only, unless the prosecuting attorney has provided written notice to the Department of Human Services that the department need not send notification of the initial maltreatment report.

(C) **What Information**.

(i) Name of each alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(D) **When.** Within five (5) business days.

(E) **Form.** CFS-201-A: Notice of Child Maltreatment Allegation to Law Enforcement and Prosecuting Attorney or CACD-201-A: Notice of Child Maltreatment Allegation to Law Enforcement and Prosecuting Attorney as appropriate;

(3)(A) Facility Director or Licensing or Registering Authority or the Director of the Division of Children and Family Services.

(B) **Type of allegation.** All maltreatment, only if the maltreatment occurred at the facility or if the alleged offender holds a license or registration from the authority.

(C) **What information.**

(i) Name of alleged offender.

(ii) Type of maltreatment.

(D) **When.** Immediately, by telephone.

(E) **Form (optional).** CFS-202-A or CACD-202-A as appropriate;

(4)(A) Legal parent or legal guardian of alleged offender in foster care.

(B) **Type of allegation**. All maltreatment.

(C) **What information.** Name of alleged offender.

(D) **Form**. CFS-204-A: Notice of Child Maltreatment Allegation to Licensing/Registering Authority or CACD-204-A: Notice of Child Maltreatment Allegation to Licensing/Registering Authority as appropriate;

(5)(A) Current foster parent of alleged offender.

(B) **Type of allegation**. All maltreatment.

(C) **What information.**

(i) Name of alleged offender.

(ii) Type of maltreatment.

(D) **When**. Within five (5) business days.

(E) **Form**. CFS-204-A: Notice of Child Maltreatment Allegation to Licensing/Registering Authority or CACD-204-A: Notice of Child Maltreatment Allegation to Licensing/Registering Authority as appropriate;

(6)(A) Legal parent or legal guardian of alleged victim in foster care.

(B) **Type of allegation.** All maltreatment.

(C) **What information.**

(i) Name of alleged victim.

(ii) Type of maltreatment.

(D) **When**. Within five (5) business days.

(E) **Form**. CFS-205-A: Notice of Child Maltreatment Allegation to Legal Parent(s), Legal Guardian(s), and Current Foster Parent(s) of Alleged Victim(s) in Foster Care;

(7)(A) Current foster parent of alleged victim.

(B) **Type of allegation**. All maltreatment.

(C) **What information**.

(i) Name of alleged victim.

(ii) Type of maltreatment.

(D) **When.** Within five (5) business days.

(E) **Form**. CFS-205-A: Notice of Child Maltreatment Allegation to Legal Parent(s), Legal Guardian(s), and Current Foster Parent(s) of Alleged Victim(s) in Foster Care;

(8)(A) Attorney ad litem of alleged victim.

(B) **Type of allegation.** All maltreatment.

(C) **What information.**

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(D) **When**. Within five (5) business days.

(E) **Form**. CFS-206-A: Notice of Child Maltreatment Allegation to Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim(s);

(9)(A) Court appointed special advocate of alleged victim.

(B) **Type of allegation.** All maltreatment.

(C) **What information.**

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(D) **When.** Within five (5) business days.

(E) **Form.** CFS-206-A: Notice of Child Maltreatment Allegation to Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim(s);

(10)(A) Counsel in dependency neglect or FINS case if alleged victim has an open court case.

(B) **Type of allegation.** All maltreatment.

(C) **What information.**

(i) Name of alleged victim.

(ii) Name of alleged offender.

(D) **Form**. CFS-206-A: Notice of Child Maltreatment Allegation to Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim(s);

(11)(A) Attorney ad litem of alleged offender.

(B) **Type of allegation.** All maltreatment.

(C) **What information.**

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(D) **When**. Within five (5) business days.

(E) **Form.** CFS-208-A: Notice of Child Maltreatment Allegation to Attorney Ad Litem and CASA of Alleged Offender;

(12)(A) Court appointed special advocate of alleged offender.

(B) **Type of allegation**. All maltreatment.

(C) **What information**.

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(D) **When**. Within five (5) business days.

(E) **Form**. CFS-208-A: Notice of Child Maltreatment Allegation to Attorney Ad Litem and CASA of Alleged Offender;

(13)(A) Attorney ad litem of child in foster home where maltreatment is reported or where an alleged juvenile offender or underaged juvenile offender is placed.

(B) **Type of allegation.** All maltreatment.

(C) **What information.**

(i) Name of child represented by AAL only.

(ii) Type of maltreatment.

(D) **When**. Within five (5) business days.

(E) **Form**. Notice of Child Maltreatment Allegation to AAL or CASA of Child in Foster Home Where Maltreatment Is Reported or Where an Alleged Juvenile Offender

or Underaged Juvenile Offender is Placed;

(14)(A) Court appointed special advocate of a child in a foster home where maltreatment is reported or where an alleged juvenile offender or underaged juvenile offender is placed.

(B) **Type of allegation.** All maltreatment.

(C) **What information.**

(i) Name of child represented by the CASA only.

(ii) Type of maltreatment.

(D) **When**. Within five (5) business days.

(E) **Form**. Notice of Child Maltreatment Allegation to AAL or CASA of Child in Foster Home Where Maltreatment Is Reported or Where an Alleged Juvenile Offender or Underaged Juvenile Offender is Placed;

(15)(A) Counsel in dependency neglect or FINS case if alleged offender has an open court case.

(B) **Type of allegation.** All maltreatment.

(C) **What Information**.

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(D) **When**. Within five (5) business days.

(E) **Form**. CFS-210-A: Notice of Child Maltreatment Allegation to Coordinator of Multidisciplinary Team for Alleged Victim or Offender and Counsel in Dependency Neglect or FINS Case for Alleged Offender;

(16)(A) Multidisciplinary team for alleged victim or offender.

(B) **Type of allegation.** All maltreatment.

(C) **What Information.**

(i) Name of alleged offender.

(ii) Name of alleged victim.

(iii) Type of maltreatment.

(D) **When.** Within five (5) business days.

(E) **Form.** CFS-210-A: Notice of Child Maltreatment Allegation to Coordinator of Multidisciplinary Team for Alleged Victim or Offender and Counsel in Dependency Neglect or FINS Case for Alleged Offender;

(17)(A) School where any child who comes into department custody is enrolled, only if the Division of Children and Family Services exercises a seventy-two-hour hold, or if court awards department custody of a child.

(B) **Type of allegation.** All maltreatment.

(C) **What information.** Name of child in custody.

(D) **When**. By next business day.

(E) **Form**. CFS-384-LEA: Notification to Local Education Agency of Changes in Child Placement, Changes in Schools or Experiences of Traumatic Events or CACD-384-LEA: Notification to Local Education Agency of Changes in Child Placement, Changes in Schools or Experiences of Traumatic Events as appropriate;

(18)(A) School where alleged juvenile offender is enrolled.

(B) No notice is given until due process is satisfied; and

(19)(A) Alleged offender.

(B) **Type of allegation**. All maltreatment.

(C) **What information.**

(i) Name of alleged offender.

(ii) Name of alleged victim.

(iii) Type of maltreatment.

(D) **When**. Hand-deliver at initial contact with alleged offender.

(E) **Form**. CFS-212-A: Notice of Child Maltreatment Allegation to Alleged Offender or CACD-212-A: Notice of Child Maltreatment Allegation to Alleged Offender as appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

9 CAR § 40-1403. Notices of at-risk determinations.

(a) If it is determined that the alleged offender is a juvenile or works with children

or is otherwise engaged in paid or volunteer child-related activities or works with the elderly or an individual with a disability or mental illness (see 9 CAR § 40-327 for more information regarding how to make at risk determination), the investigator will:

(1) Complete applicable sections of CFS-215-R: Risk Determination of Certain Individuals Under Care of Alleged Offender and immediately submit to his or her supervisor; and

(2) If notified by the Area Director that the Director of the Division of Children and Family Services or designee has confirmed the at-risk determination via CFS-215-R: Risk Determination of Certain Individuals Under Care of Alleged Offender:

(A) Issue the at-risk determination notice as applicable via CFS-214: Notice of Child Maltreatment Allegation to Employer, Volunteer Coordinator, or Licensing or Registering Authority; and

(B) Place a copy of the CFS-214: Notice of Child Maltreatment Allegation to Employer, Volunteer Coordinator, or Licensing or Registering Authority and completed CFS-215-R: Risk Determination of Certain Individuals Under Care of Alleged Offender in the investigative file.

(b) The supervisor will:

(1) Review CFS-215-R: Risk Determination of Certain Individuals Under Care of Alleged Offender immediately upon receipt;

(2) Conference immediately with the investigator regarding the at-risk determination; and

(3) Complete applicable sections of CFS-215-R: Risk Determination of Certain Individuals Under Care of Alleged Offender and immediately submit to his or her Area Director.

(c) The Area Director or designee/Crimes Against Children Division Administrator or designee will:

(1) Review CFS-215-R: Risk Determination of Certain Individuals Under Care of Alleged Offender immediately upon receipt;

(2) Conference immediately with the supervisor regarding the at-risk determination;

(3) Consult with the Office of Chief Counsel as necessary prior to making a notice of at-risk determination;

(4) Complete applicable sections of CFS-215-R: Risk Determination of Certain Individuals Under Care of Alleged Offender; and

(5)(A) Fax CFS-215-R: Risk Determination to the Director of the Division of Children and Family Services or designee immediately.

(B) If the Director of the Division of Children and Family Services or designee confirms the at-risk determination in writing via CFS-215-R:

(i) Give written approval to the investigator and supervisor to issue the at-risk determination notices as applicable via CFS-214: Notice of Child Maltreatment Allegation to Employer, Volunteer Coordinator, or Licensing or Registering Authority; and

(ii) Ensure investigator receives completed CFS-215-R: Risk Determination (with the Director of the Division of Children and Family Services or designee signature) for placement in investigative file.

(d) The Director of the Division of Children and Family Services or designee will:

(1) Immediately confirm or deny at risk determination via completion of application sections of CFS-215-R: Risk Determination; and

(2) Immediately fax completed CFS-215-R: Risk Determination to Area Director or designee or Crimes Against Children Division Administrator or designee, as applicable.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1404. Follow-up notices of at-risk determinations.

(a) If upon further investigation the investigator concludes children, the elderly, or individuals with a disability or mental illness under the care of the alleged offender are not at risk, the "at risk" determination will be changed and the investigator will immediately:

(1) Notify his or her supervisor the determination that children are not at risk; and

(2) If the Area Director notifies.

(b) The supervisor will:

(1) Conference immediately with the investigator regarding the new determination of child not at risk; and

(2) Immediately notify the Area Director regarding the new determination of child not at risk.

(c) The Area Director or designee/Crimes Against Children Division Administrator or designee will:

(1) Conference immediately with the supervisor regarding the new determination of children not at risk;

(2) Immediately notify the Director of the Division of Children and Family Services or designee regarding the new determination of child not at risk; and

(3) If the Director of the Division of Children and Family Services or designee agrees that children are no longer determined to be at risk immediately notify the investigator and supervisor to immediately issue CFS-214-R1: Follow-Up Notice to Employer, Volunteer Coordinator, or Licensing or Registering Authority Regarding Child Maltreatment Allegation, as applicable.

(d) The Director of the Division of Children and Family Services or designee will immediately:

(1) Confirm or deny determination that children are no longer at risk; and

(2) Notify Area Director or designee or Crimes Against Children Division or designee, as applicable.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1405. Notices of true investigative findings.

(a)(1) When a preponderance of the evidence found during an investigation indicates that an allegation should be determined true, the investigating agency shall notify certain persons as noted below or may notify the certain persons as noted below if the Department of Human Services determines the notification is necessary to ensure the health or safety of a child or confirm the investigative determination upon request as noted below.

(2) These notices may be made prior to satisfaction of due process for the alleged offender.

(3) If notice cannot be made to the alleged offender, see 9 CAR § 40-1006, expedited hearing process.

(b)(1) Any person or agency to whom disclosure is made may not disclose to any other person a report or other information included in the notices.

(2) However, the person or agency is permitted to consult his or her own attorney regarding the information in any notice provided to them.

(c) **Law enforcement.**

(1) **Type of allegation.** Severe maltreatment only.

(2) **What information.**

(A) Name of each victim.

(B) Name of alleged offender type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-221-T: Child Maltreatment True Investigative Determination Notice to Law Enforcement and Prosecuting Attorney or CACD-221-T: Child Maltreatment True Investigative Determination Notice to Law Enforcement and

Prosecuting Attorney as appropriate.

(d) **Prosecuting attorney.**

(1) **Type of allegation.** Severe maltreatment only.

(2) **What information.**

(A) Name of each victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-221-T: Child Maltreatment True Investigative Determination Notice to Law Enforcement and Prosecuting Attorney or CACD-221-T: Child Maltreatment True Investigative Determination Notice to Law Enforcement and Prosecuting Attorney as appropriate.

(e) Facility director or licensing or registering authority.

(1) **Type of allegation.** All maltreatment, only if the maltreatment occurred at the facility or if the alleged offender holds a license or registration from the authority information.

(2) **What information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Upon request or if the department determines notification is necessary to ensure the health or safety of the child.

(4) **Form.** CFS-234-T: Child Maltreatment True Investigative Determination Notice to Licensing or Registering Authority and Employer or Volunteer Coordinator or CACD-234-T: Child Maltreatment True Investigative Determination Notice to Licensing or Registering Authority and Employer or Volunteer Coordinator as appropriate.

(f) **Facility director.**

(1) **Type of allegation.** All maltreatment, only if the maltreatment occurred at the facility and the facility is licensed or registered by, or is operated by or operated under contract with the State of Arkansas.

(2) **What Information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Upon request or if the department determines notification is necessary to ensure the health or safety of the child.

(4) **Form.** CFS-222-T: Child Maltreatment True Investigative Determination Notice to Facility Director or CACD-222-T: Child Maltreatment True Investigative Determination Notice to Facility Director as appropriate.

(g) **The Director of the Division of Children and Family Services.**

(1) **Type of allegation.** All maltreatment, only if the maltreatment occurred at a facility operated by or operated under contract with the department.

(2) **What information.**

(A) Name of alleged offender.

(B) Name of alleged victim.

(C) Type of maltreatment.

(3) **When**. Upon request or if department determines notification is necessary to ensure the health or safety of the child.

(4) **Form**. CFS-230-T: Child Maltreatment True Investigative Determination Notice to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim or Offender; and Circuit Judge and Counsel in Dependency Neglect or FINS Case for Alleged Offender.

(h) **Alleged underaged juvenile offender (under fourteen (14) years of age).**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Name of alleged victim.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-223-T1: Child Maltreatment True Investigative Determination Notice to Underaged Juvenile Offender (Under 14 Years old) or CACD-223-T1: Child

Maltreatment True Investigative Determination Notice to Underaged Juvenile Offender (Under 14 Years old) as appropriate.

(i) **Alleged juvenile offender fourteen to seventeen (14 – 17) years of age.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Name of alleged victim.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-223-T3: Child Maltreatment True Investigative Determination Notice to Alleged Juvenile Offender 14-17 Years of Age or CACD-223-T3: Child Maltreatment True Investigative Determination Notice to Alleged Juvenile Offender 14-17 Years of Age as appropriate.

(j) **Alleged juvenile offender (at time of offense) currently eighteen (18) years of age or older (at time of notification).**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Name of alleged victim.

(3) **When**. Within ten (10) business days of determination.

(4) **Form.** CFS-223-T4: Child Maltreatment True Investigative Determination Notice to Alleged Juvenile Offender Currently 18 or Older or CACD-223-T4: Child Maltreatment True Investigative Determination Notice to Alleged Juvenile Offender Currently 18 or Older, as appropriate.

(k) **Legal parents and legal guardians of alleged underaged juvenile offender (under fourteen (14) years of age).**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Name of alleged victim.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-224-T1: Child Maltreatment True Investigative Determination Notice to Legal Parents and Guardians of Underaged Juvenile Offender (under 14 years old) or CACD-224-T1: Child Maltreatment True Investigative Determination Notice to Legal Parents and Guardians of Underaged Juvenile Offender (under 14 years old) as appropriate.

(l) **Legal parents and legal guardians of alleged juvenile offender fourteen to seventeen (14 – 17) years of age.**

(1) **Type of allegation.** Sexual abuse.

(2) **What information.**

(A) Name of alleged juvenile offender.

(B) Name of alleged victim.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-224-T3 or CACD-224-T3 as appropriate.

(m) Current foster parent of alleged offender in foster care.

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-224-T4: Child Maltreatment True Investigative Determination Notice to Current Foster Parents of the Alleged Offender in Foster Care.

(n) **Current foster parent of alleged offender in foster care.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-224-T4: Child Maltreatment True Investigative Determination Notice to Current Foster Parents of the Alleged Offender in Foster Care.

(o) **Legal parents or legal guardians of alleged victim in foster care.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Name of alleged victim.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-225-T1: Child Maltreatment True Investigative Determination Notice to Victim, Legal Parent(s), and Legal Guardian(s) of the Alleged Victim or CACD-225-T1: Child Maltreatment True Investigative Determination Notice to Victim, Legal Parent(s), and Legal Guardian(s) of the Alleged Victim, as appropriate.

(p) **Victim, if fourteen (14) years of age or older.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-225-T1: Child Maltreatment True Investigative Determination Notice to Victim, Legal Parent(s), and Legal Guardian(s) of the Alleged Victim or CACD-225-T1: Child Maltreatment True Investigative Determination Notice to Victim, Legal Parent(s), and Legal Guardian(s) of the Alleged Victim as appropriate.

(q) **Custodial, noncustodial parent, guardians, legal custodians of victim, regardless of the age of the child.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-225-T1: Child Maltreatment True Investigative Determination Notice to Victim, Legal Parent(s), and Legal Guardian(s) of the Alleged Victim or CACD-225-T1: Child Maltreatment True Investigative Determination Notice to Victim, Legal Parent(s), and Legal Guardian(s) of the Alleged Victim as appropriate.

(r) **Victim, if ten (10) years of age or older.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-225-T1: Child Maltreatment True Investigative Determination Notice to Victim, Legal Parent(s), and Legal Guardian(s) of the Alleged Victim or CACD-225-T1: Child Maltreatment True Investigative Determination Notice to Victim, Legal Parent(s), and Legal Guardian(s) of the Alleged Victim as appropriate.

(s) **Attorney ad litem of alleged victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Upon request or if the department determines notification is necessary to ensure the health or safety of the child.

(4) **Form.** CFS-226-T1: Child Maltreatment True Investigative Determination Notice to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim.

(t) **Court appointed special advocate of alleged victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Upon request or if the department determines notification is necessary to ensure the health or safety of the child.

(4) **Form.** CFS-226-T1: Child Maltreatment True Investigative Determination Notice to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim.

(u) **Juvenile division of circuit court with jurisdiction of an ongoing dependency neglect or FINS case of alleged victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim over whom the court has jurisdiction.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-226-T1: Child Maltreatment True Investigative Determination Notice to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim.

(v) **Juvenile division of circuit court with jurisdiction of an ongoing dependency neglect or FINS case of alleged offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender over whom the court has jurisdiction.

(C) Type of maltreatment.

(3) **When.** Upon request or if the department determines notification is necessary to ensure the health or safety of the child.

(4) **Form.** CFS-230-T: Child Maltreatment True Investigative Determination

Notice to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim or Offender; and Circuit Judge and Counsel in Dependency Neglect or FINS Case for Alleged Offender.

(w) **Attorney ad litem of alleged offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Upon request or if the department determines notification is necessary to ensure the health or safety of the child.

(4) **Form.** CFS-228-T: Child Maltreatment True Investigative Determination Notice to Attorney Ad Litem and CASA of Alleged Offender.

(x) Court appointed special advocate of alleged offender.

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Upon request or if the department determines notification is necessary to ensure the health or safety of the child.

(4) **Form.** CFS-228-T: Child Maltreatment True Investigative Determination Notice to Attorney Ad Litem and CASA of Alleged Offender.

(y) **Counsel in dependency neglect or FINS case of an alleged offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Name of alleged victim.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-230-T: Child Maltreatment True Investigative Determination Notice to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim or Offender; and Circuit Judge and Counsel in Dependency Neglect or FINS Case for Alleged Offender.

(z) **Counsel in dependency neglect or FINS case of an alleged victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Name of alleged victim.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-226-T1: Child Maltreatment True Investigative Determination Notice to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim.

(aa) **Attorney ad litem of child in foster home where maltreatment is reported.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.** Name of child represented by the AAL only.

(3) **When.** Upon request or if the department determines notification is necessary to ensure the health or safety of the child.

(4) **Form.** CFS-229-T: Child Maltreatment True Investigative Determination Notice to Attorney Ad Litem and CASA for Child in Foster Home Where Maltreatment Is Reported.

(bb) **Court-appointed special advocate of child in foster home where maltreatment is reported or when alleged juvenile offender or under-aged juvenile offender is placed in the same placement as client.**

(1) **Type of allegation.** All maltreatment.

(2) **What information**.

(A) Name of child represented by the CASA only.

(B) Type of maltreatment.

(3) **When.** Upon request or if the department determines notification is necessary to ensure the health or safety of the child.

(4) **Form.** CFS-229-T: Child Maltreatment True Investigative Determination Notice to Attorney Ad Litem and CASA for Child in Foster Home Where Maltreatment Is Reported.

(cc) **Multidisciplinary team for alleged offender or victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Upon request or if the department determines notification is necessary to ensure the health or safety of the child.

(4) **Form.** CFS-230-T: Child Maltreatment True Investigative Determination Notice to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim or Offender; and Circuit Judge and Counsel in Dependency Neglect or FINS Case for Alleged Offender.

(dd) **Offender (see "true determination and special process for notice to offender" below).**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS 232-T1: Child Maltreatment True Investigative Determination Notice to Alleged Adult Offender and CFS-232-T1-A: Witness Statement of Notice of Investigative Determination or CACD-232-T1: Child Maltreatment True Investigative Determination Notice to Alleged Adult Offender and CACD-232-T1-A: Witness Statement of Notice of Investigative Determination as appropriate.

(ee) **School where alleged juvenile offender is enrolled.** No notice at this time.

(ff) Offender, thirteen (13) years of age and older (see "true determination and special process for notice to offender" below).

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS 232-T1: Child Maltreatment True Investigative Determination Notice to Alleged Adult Offender and CFS-232-T1-A: Witness Statement of Notice of Investigative Determination or CACD-232-T1: Child Maltreatment True Investigative Determination Notice to Alleged Adult Offender and CACD-232-T1-A: Witness Statement of Notice of Investigative Determination as appropriate.

(gg)(1) Offender, exempt, Garrett's Law or religious.

(2) **Type of allegation.** All maltreatment.

(3) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(4) **When**. Within ten (10) business days of determination.

(5) **Form.** CFS-232-T2: True but Exempt Child Maltreatment Investigative Determination Notice to Offender or CACD-232-T2: True but Exempt Child Maltreatment Investigative Determination Notice to Offender as appropriate.

(hh) **True determination and special process for notice to offender.**

(1) If the investigation is determined true and not exempt, the offender must be notified of the right to request an administrative hearing within thirty (30) days of the investigative determination.

(2)(A) If the alleged offender is a juvenile fourteen (14) years of age or older

at the time of the act or omission, the notification must include a statement that the matter has been referred for an automatic administrative hearing.

(B) The hearing may be waived by the juvenile offender or his or her parent in writing.

(C) This hearing may not be waived by the department if the child is in foster care, but may be waived by the attorney of the child in foster care.

(3)(A) The investigator may elect to provide notice via certified mail with restricted delivery, or by face-to-face meeting.

(B) If either or both methods fail to make contact with the offender, the investigator should utilize a process server.

(4) Upon completion of the investigation, the investigator will:

(A)(i) Go into the document tracking screen in CHRIS, click on the "standard" line, go to the pick-list and select the CFS-232-T1: Notice to Offender of True Child Maltreatment Investigative Determination or Expedited Hearing.

(ii) Enter the date.

(iii) The CFS-232-T1 will be mailed or presented in a face-to-face meeting in the "Date Requested" field; and

(B)(i) Provide the alleged offender a copy of the CFS-232-T1: Notice to Offender of True Child Maltreatment Investigative Determination or Expedited Hearing within ten (10) business days of determination.

(ii) Notice via certified mail.

(iii) If the investigator elects to mail the notice to the offender, he or she shall send the CFS-232-T1: Notice to Offender of True Child Maltreatment Investigative Determination or Expedited Hearing to the offender via certified mail with restricted delivery.

(5) **Notice via face-to-face meeting.**

(A)(i) If the investigator elects to hand deliver the notice to the offender in the county office or at a safe location outside the office, he or she must use the CFS-232-T1: Notice to Offender of True Child Maltreatment Investigative Determination.

(ii)*(a)* When the investigator has presented the CFS-232-T1: Notice to

Offender to the offender in the county office, and if the offender refuses to sign the form, the CFS- 232-T1-A: Witness Statement of Notice of Investigative Determination must be used, the investigator must obtain a department employee in the county office who is unbiased and available to witness that the offender has been presented with the notice, but refuses to sign.

(b) The available department county office employee will fill-out the CFS-232-T1-A in the presence of the offender and the investigator who is attempting to provide notice.

(c)(1) If the investigator schedules a meeting to present notice to the offender in the county office and the offender does not keep the appointment, then the investigator should attempt to deliver by certified mail restricted delivery.

(2) If the certified mail delivery is unsuccessful, the investigator should utilize a process server.

(iii)*(a)* If the investigator elects to hand deliver the notice at a safe location outside the county office, he or she must be accompanied by an available department county office employee.

(b) When the investigator has presented the CFS-232-T1: Notice to Offender to the offender, and if the offender refuses to sign the form, the accompanying department employee will fill out the CFS-232-T1-A in the presence of the offender and the investigator who is attempting to provide notice.

(c) If an investigator isn't able to make contact with the offender outside the office, he should utilize a process server.

(6) **Notice via process server.**

(A) The investigator should utilize a process server only after the:

(i) Postal service returns the green card unsigned; or

(ii) Investigator was unsuccessful in making face-to-face contact with the offender.

(B) Upon successfully providing notification of the determination to the alleged offender, the investigator will:

(i) Enter the date the offender received the notice in the "Date

Received/Issued" field on CHRIS after the postal service returns the green card (return receipt); or

(ii) Enter the date the offender was provided with the notice in a face-to-face meeting.

(7)(A) Continuing attempts to notify when unable to locate offender.

(B) If the process server is unable to serve the offender, the division shall continue to attempt to notify the offender no less frequently than once a year for no fewer than three (3) years.

(ii) **True determination and children, the elderly, or individuals with disabilities or mental illness at risk.**

(1)(A) Upon satisfaction of due process and if the investigative determination is true, if the offender is a juvenile or is engaged in child-related activities or employment, works with the elderly, an individual with disabilities or mental illness, or is a juvenile and the department has determined that children, the elderly, or individuals with disabilities or mental illness under the care of the offender appear to be at risk of maltreatment by the alleged offender, the department may notify the following of the investigative determination upon receiving written approval from the Director of the Division of Children and Family Services or designee.

(B)(i) Alleged offender's employer, entity, or person in charge of the alleged offender's paid or volunteer activity.

(ii) A licensing or registering authority to the extent necessary to carry out its official responsibilities.

(C) **Type of allegation.** All maltreatment.

(D) **What information.**

(i) Name of alleged offender.

(ii) Type of maltreatment.

(E) **When.** Within ten (10) business days of determination.

(F) **Form.** CFS-234-T: Child Maltreatment True Investigative Determination Notice to Licensing or Registering Authority and Employer or Volunteer Coordinator or CACD-234-T: Child Maltreatment True Investigative Determination

Notice to Licensing or Registering Authority and Employer or Volunteer Coordinator as appropriate.

(2) If the division later determines that there is not a preponderance of the evidence indicating that children under the care of the alleged offender appear to be at risk, the division shall immediately notify the previously notified person or entity of that information.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1406. Notices of unsubstantiated allegations of child maltreatment.

(a) When a determination that an allegation of child maltreatment is not supported by a preponderance of evidence and is determined to be unsubstantiated, the investigating agency shall notify as outlined below or confirm upon request as outlined below, only if notice of the allegation was given.

(b) **Law enforcement.**

(1) **Type of allegation.** Severe maltreatment only.

(2) **What information.**

(A) Name of each victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When**. Within ten (10) business days of determination.

(4) **Form**. CFS-241-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Law Enforcement and Prosecuting Attorney or CACD-241-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to

Law Enforcement and Prosecuting Attorney as appropriate.

(c) **Prosecuting attorney.**

(1) **Type of allegation.** Severe maltreatment only.

(2) **What information.**

(A) Name of each victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When**. Within ten (10) business days of determination.

(4) **Form.** CFS-241-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Law Enforcement and Prosecuting Attorney or CACD-241-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Law Enforcement and Prosecuting Attorney as appropriate.

(d) **Licensing or registering authority.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-242-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Licensing or Registering Authority or CACD-242-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Licensing or Registering Authority as appropriate.

(e) **Facility director.**

(1) **Type of allegation.** All maltreatment, only if the maltreatment occurred at the facility and the facility is licensed or registered by, or is operated by or operated under contract with the State of Arkansas.

(2) **What information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-243-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Facility Director or CACD-243-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Facility Director as appropriate.

(f) **Director of the Division of Children and Family Services.**

(1) **Type of allegation.** All maltreatment, only if the maltreatment occurred at a facility operated by or operated under contract with the department.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-250-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim or Offender; and Circuit Judge or Counsel in Dependency Neglect or FINS Case for Alleged Offender.

(g) **Alleged underaged juvenile offender (under fourteen (14) years of age).**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-240-U1: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Underaged Juvenile Offender (under 14 Years Old) or CACD-240-U1: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Underaged Juvenile Offender (under 14 Years Old) as appropriate.

(h) **Alleged juvenile offender (fourteen to seventeen (14 – 17) years of**

age).

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-240-U2: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Juvenile Offender (14-17 Years of age) or CACD-240-U2: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Juvenile Offender (14-17 Years of age) as appropriate.

(i) **Legal parent or legal guardian of alleged offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-244-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Legal Parents and Legal Guardians of Alleged Offender or CACD-244-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Legal Parents and Legal Guardians of Alleged Offender as appropriate.

(j) **Legal parent or legal guardian of alleged victim in foster care.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-245-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Legal Parent(s), Legal Guardians, and Current Foster

Parents of the Alleged Victim or CACD-245-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Legal Parent(s), Legal Guardians, and Current Foster Parents of the Alleged Victim as appropriate.

(k) **Current foster parent of alleged victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-245-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Legal Parent(s), Legal Guardians, and Current Foster Parents of the Alleged Victim or CACD-245-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Legal Parent(s), Legal Guardians, and Current Foster Parents of the Alleged Victim as appropriate.

(l) **Custodial, noncustodial parent, guardians, legal custodians of victim, regardless of the age of the child.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-245-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Legal Parent(s), Legal Guardians, and Current Foster Parents of the Alleged Victim or CACD-245-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Legal Parent(s), Legal Guardians, and Current Foster Parents of the Alleged Victim as appropriate.

(m) **Alleged victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-245-U-1: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Victim or CACD-245-U-1: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Victim as appropriate.

(n) **Attorney ad litem of alleged victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-246-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim.

(o) **Court appointed special advocate of alleged victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-246-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim.

(p) **Juvenile division of circuit court with jurisdiction of an ongoing dependency neglect or FINS case for alleged victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-246-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim.

(q) **Counsel in dependency neglect or FINS case if alleged victim has an open court case.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-246-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim

(r) **Juvenile division of circuit court with jurisdiction of an ongoing dependency neglect or FINS case for alleged offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-250-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim or Offender; and Circuit Judge or Counsel in Dependency Neglect or FINS Case for Alleged Offender.

(s) **Counsel in dependency neglect or FINS case if alleged offender has an open court case.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged victim.

(B) Name of alleged offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-250-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim or Offender; and Circuit Judge or Counsel in Dependency Neglect or FINS Case for Alleged Offender.

(t) **Attorney ad litem of alleged offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-248-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Attorney Ad Litem and CASA for Alleged Offender.

(u) **Court appointed special advocate of alleged offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-248-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Attorney Ad Litem and CASA for Alleged Offender.

(v) **Attorney ad litem of other children in foster home where maltreatment is reported.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of child represented by the AAL only.

(B) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-249-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Attorney Ad Litem and CASA of Child in Foster Home Where Maltreatment Is Reported.

(w) **Court appointed special advocate of other children in foster home.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of child represented by the CASA only.

(B) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-249-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Attorney Ad Litem and CASA of Child in Foster Home Where Maltreatment Is Reported.

(x) **Multidisciplinary team of alleged victim and alleged offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Name of alleged victim.

(C) Type of maltreatment.

(3) **When.** Upon request.

(4) **Form.** CFS-250-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim or Offender; and Circuit Judge or Counsel in Dependency Neglect or FINS Case for Alleged Offender.

(y) **Alleged offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Name of alleged victim.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-252-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Offender or CACD-252-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Offender as appropriate.

(z) **Alleged offender's employer when other children under the care of the alleged offender appeared to have been at risk, only if notified initially.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-254-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Offender's Employer or Entity in Charge of Alleged Offender's Paid or Volunteer Activity; or Licensing or Registering Authority or CACD-254-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Offender's Employer or Entity in Charge of Alleged Offender's Paid or Volunteer Activity; or Licensing or Registering Authority as appropriate.

(aa) **Person in charge of alleged offender's paid or volunteer activity when other children under the care of the alleged offender appeared to have been at risk, only if notified initially.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-254-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Offender's Employer or Entity in Charge of Alleged Offender's Paid or Volunteer Activity; or Licensing or Registering Authority or CACD-254-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Offender's Employer or Entity in Charge of Alleged Offender's Paid or Volunteer Activity; or Licensing or Registering Authority as appropriate.

(bb) Licensing or registering authority when children under care of the alleged offender appeared to have been at risk, only if notified initially:

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of alleged offender.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days of determination.

(4) **Form.** CFS-254-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Offender's Employer or Entity in Charge of Alleged Offender's Paid or Volunteer Activity; or Licensing or Registering Authority or CACD-254-U: Notice of Unsubstantiated Child Maltreatment Investigative Determination to Alleged Offender's Employer or Entity in Charge of Alleged Offender's Paid or Volunteer Activity; or Licensing or Registering Authority as appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1407. Notices of overturned true investigation determination.

(a) Due process is satisfied by providing the alleged offender with notice and an opportunity for an administrative hearing and when:

(1) The administrative law judge makes a decision to either uphold or overturn the "true" investigative determination;

(2) Thirty (30) days have passed and the alleged offender did not request a hearing;

(3) The alleged offender was a juvenile and he or his legal parent or guardian waived the administrative hearing or the administrative law judge issued a decision; or

(4) The administrative law judge upheld the true determination because of a preliminary administrative hearing and allowed provisional placement of the alleged offender's name on the Child Maltreatment Central Registry.

(b)(1) Notices of overturned decisions may be sent only after due process is satisfied.

(2) Verification must be obtained of either the judicial determination or the fact that alleged offender prevailed in the administrative hearing.

(3) These notices serve to inform that the investigative determination was overturned.

(4) **Law enforcement.**

(A) **Type of allegation.** Severe maltreatment only.

(B) **What information.**

(i) Name of each alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after central registry receives notice that the alleged offender prevailed in the administrative hearing, but only if the notice of true determination was provided.

(D) **Form.** CFS-261-O: Notice of Overturned True Child Maltreatment Investigative Determination to Law Enforcement and Prosecuting Attorney or CACD-261-O: Notice of Overturned True Child Maltreatment Investigative Determination to Law Enforcement and Prosecuting Attorney as appropriate.

(5) **Prosecuting attorney.**

(A) **Type of allegation.** Severe maltreatment only.

(B) **What information.**

(i) Name of each alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after central registry receives notice that the alleged offender prevailed in the administrative hearing, but only if the notice of true determination was provided.

(D) **Form.** CFS-261-O: Notice of Overturned True Child Maltreatment Investigative Determination to Law Enforcement and Prosecuting Attorney or CACD-261-O: Notice of Overturned True Child Maltreatment Investigative Determination to Law Enforcement and Prosecuting Attorney as appropriate.

(6) **Licensing or registering authority.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged offender.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-274-O: Notice of Overturned True Child Maltreatment Investigative Determination to Licensing or Registering Authority and Employer or Entity in Charge of Paid or Volunteer Activity or CACD-274-O: Notice of Overturned True Child Maltreatment Investigative Determination to Licensing or Registering Authority and Employer or Entity in Charge of Paid or Volunteer Activity as appropriate.

(7) **Facility director.**

(A) **Type of allegation.** All maltreatment, only if the maltreatment occurred at the facility, and the facility is licensed or registered by, or is operated by or operated under contract with the State of Arkansas.

(B) **What information.**

(i) Name of alleged offender.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-263-O: Notice of Overturned True Child Maltreatment Investigative Determination to Facility Director or CACD-263-O: Notice of Overturned True Child Maltreatment Investigative Determination to facility director, as appropriate.

(8) **Director of the Division of Children and Family Services.**

(A) **Type of allegation.** All maltreatment, only if the maltreatment occurred at a facility operated by or operated under contract with the department.

(B) **What information.**

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-270-O: Notice of Overturned True Child Maltreatment Investigative Determination to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim and Offender; and Circuit Judge and Counsel in Dependency Neglect or FINS Case of Alleged Offender or CACD-270-O: Notice of Overturned True Child Maltreatment Investigative Determination to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim and Offender; and Circuit Judge and Counsel in Dependency Neglect or FINS Case of Alleged Offender as appropriate.

(9) **Legal parent or legal guardian of an alleged offender in foster care.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged offender.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-264-O: Notice of Overturned True Child Maltreatment

Investigative Determination to Legal Parent(s) and Legal Guardian(s) of the Alleged Offender or CACD-264-O: Notice of Overturned True Child Maltreatment Investigative Determination to Legal Parent(s) and Legal Guardian(s) of the Alleged Offender as appropriate.

(10) **Legal parent or legal guardian of alleged victim in foster care.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-265-O-1: Notice of Overturned True Child Maltreatment Investigative Determination to Victim and Legal Parent(s) and Legal Guardian(s) of Alleged Victim or CACD-265-O-1: Notice of Overturned True Child Maltreatment Investigative Determination to Victim and Legal Parent(s) and Legal Guardian(s) of Alleged Victim as appropriate.

(11) **Current foster parent of alleged victim in foster care.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-265-O-2: Notice of Overturned True Child Maltreatment Investigative Determination to Current Foster Parent(s) of the Alleged Victim.

(12) **Legal parents, custodial, noncustodial parents, guardians, legal custodians of alleged victim regardless of the age of the child.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-265-O-1: Notice of Overturned True Child Maltreatment Investigative Determination to Victim and Legal Parent(s) and Legal Guardian(s) of Alleged Victim or CACD-265-O-1: Notice of Overturned True Child Maltreatment Investigative Determination to Victim and Legal Parent(s) and Legal Guardian(s) of Alleged Victim as appropriate.

(13) **Alleged victim, if fourteen (14) years of age or older.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-265-O-1: Notice of Overturned True Child Maltreatment Investigative Determination to Victim and Legal Parent(s) and Legal Guardian(s) of Alleged Victim or CACD-265-O-1: Notice of Overturned True Child Maltreatment Investigative Determination to Victim and Legal Parent(s) and Legal Guardian(s) of Alleged Victim as appropriate.

(14) **Attorney ad litem of alleged victim.**

(A) **Type of allegation**. All maltreatment.

(B) **What information.**

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-266-O: Notice of Overturned True Child Maltreatment Investigative Determination to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in

Dependency Neglect or FINS Case of Alleged Victim.

(15) **Court appointed special advocate of alleged victim.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-266-O: Notice of Overturned True Child Maltreatment Investigative Determination to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim.

(16) **Circuit judge with jurisdiction of an ongoing dependency neglect or FINS case of alleged victim.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim over whom the court has jurisdiction.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-266-O: Notice of Overturned True Child Maltreatment Investigative Determination to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim.

(17) **Counsel in dependency neglect or FINS case of an alleged victim.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-266-O: Notice of Overturned True Child Maltreatment Investigative Determination to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Alleged Victim.

(18) **Circuit judge with jurisdiction of an ongoing dependency neglect or FINS case of alleged offender.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim over whom the court has jurisdiction.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-270-O: Notice of Overturned True Child Maltreatment Investigative Determination to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim and Offender; and Circuit Judge and Counsel in Dependency Neglect or FINS Case of Alleged Offender.

(19) **Counsel in dependency neglect or FINS case of an alleged offender.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-270-O: Notice of Overturned True Child Maltreatment Investigative Determination to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim and Offender; and Circuit Judge and Counsel in Dependency

Neglect or FINS Case of Alleged Offender.

(20) **Attorney ad litem of alleged offender.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-268-O: Notice of Overturned True Child Maltreatment Investigative Determination to Attorney Ad Litem and CASA of Alleged Offender.

(21) **Court appointed special advocate of alleged offender.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-268-O: Notice of Overturned True Child Maltreatment Investigative Determination to Attorney Ad Litem and CASA of Alleged Offender.

(22) **Attorney ad litem of child in foster home where maltreatment is reported.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of child represented by AAL only.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-269-O: Notice of Overturned True Child Maltreatment

Investigative Determination to Attorney Ad Litem and CASA of Child in Foster Home Where Maltreatment Is Reported.

(23) **CASA of child in foster home where maltreatment is reported.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of child represented by CASA only.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-269-O: Notice of Overturned True Child Maltreatment Investigative Determination to Attorney Ad Litem and CASA of Child in Foster Home Where Maltreatment Is Reported.

(24) **Multidisciplinary team.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim or victims.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-270-O: Notice of Overturned True Child Maltreatment Investigative Determination to DHS Division Director; Coordinator of Multidisciplinary Team for Alleged Victim and Offender; and Circuit Judge and Counsel in Dependency Neglect or FINS Case of Alleged Offender.

(25) **Alleged offender.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged victim or victims.

(ii) Name of alleged offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-272-O: Notice of Overturned True Child Maltreatment Investigative Determination to Alleged Offender or CACD-272-O: Notice of Overturned True Child Maltreatment Investigative Determination to Alleged Offender as appropriate.

(26) **Alleged offender's employer when other children under the care of the alleged offender may be at risk, only if they received notice.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged offender.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-274-O: Notice of Overturned True Child Maltreatment Investigative Determination to Licensing or Registering Authority and Employer or Entity in Charge of Paid or Volunteer Activity or CACD-274-O: Notice of Overturned True Child Maltreatment Investigative Determination to Licensing or Registering Authority and Employer or Entity in Charge of Paid or Volunteer Activity as appropriate.

(27) **Entity or person in charge of the alleged offender's paid or volunteer activity when other children under the care of the alleged offender may be at risk, only if they received notice.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged offender.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-274-O: Notice of Overturned True Child Maltreatment Investigative Determination to Licensing or Registering Authority and Employer or Entity

in Charge of Paid or Volunteer Activity or CACD-274-O: Notice of Overturned True Child Maltreatment Investigative Determination to Licensing or Registering Authority and Employer or Entity in Charge of Paid or Volunteer Activity as appropriate.

(28) **Licensing or registering authority when other children under the care of the alleged offender may be at risk, only if they received notice.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of alleged offender.

(ii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives notice that the alleged offender prevailed in the administrative hearing.

(D) **Form.** CFS-274-O: Notice of Overturned True Child Maltreatment Investigative Determination to Licensing or Registering Authority and Employer or Entity in Charge of Paid or Volunteer Activity or CACD-274-O: Notice of Overturned True Child Maltreatment Investigative Determination to Licensing or Registering Authority and Employer or Entity in Charge of Paid or Volunteer Activity as appropriate.

(29) **School where alleged juvenile offender is enrolled.** No notice.

(30) **Child Safety Center, if involved in the investigation.**

(A) **Type of allegation.** All maltreatment.

(B) **What information.**

(i) Name of victim.

(ii) Name of offender.

(iii) Type of maltreatment.

(C) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(D) **Form.** CFS-275-O: Notice of Overturned True Child Maltreatment Investigative Determination to Child Safety Center Involved in Investigation of Maltreatment or CACD-275-O: Notice of Overturned True Child Maltreatment Investigative Determination to Child Safety Center Involved in Investigation of

Maltreatment as appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"08/2013"

9 CAR § 40-1408. Notices that offender's name will be placed in the Child Maltreatment Central Registry.

(a)(1) Due process is accomplished by providing the alleged offender with notice and an opportunity for an administrative hearing.

(2) Due process is satisfied when:

(A) The administrative law judge makes a decision to either uphold or overturn the "true" investigative determination;

(B) Thirty (30) days have passed and the offender did not request a hearing;

(C) The alleged offender was a juvenile and he or she or his or her legal parent or guardian waived the administrative hearing or the administrative law judge issued a decision; or

(D) The administrative law judge upheld the true determination because of a preliminary administrative hearing and allowed provisional placement of the offender's name on the Child Maltreatment Central Registry.

(b)(1) These notices of name placement in the Child Maltreatment Central Registry must be sent only after due process is satisfied.

(2) Verification must be obtained that the judicial determination of the original true finding was upheld in either the regular or preliminary administrative hearing or of the fact that no hearing was requested.

(3) These notices serve to inform that the investigative determination was

upheld and that the offender's name will be placed in the Child Maltreatment Central Registry, or that a prima facie case was established, allowing provisional placement of the name.

(c) **Law enforcement.**

(1) **Type of allegation.** Severe maltreatment only.

(2) **What information.**

(A) Name of each victim.

(B) Name of offender.

(C) Type of Maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-281-N: Notice of Name Placement on Central Registry to Law Enforcement and Prosecuting Attorney or CACD-281-N: Notice of Name Placement on Central Registry to Law Enforcement and Prosecuting Attorney as appropriate.

(d) **Prosecuting attorney.**

(1) **Type of allegation.** Severe maltreatment only.

(2) **What information.**

(A) Name of each victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-281-N: Notice of Name Placement on Central Registry to Law Enforcement and Prosecuting Attorney or CACD-281-N: Notice of Name Placement on Central Registry to Law Enforcement and Prosecuting Attorney as appropriate.

(e) **Licensing or registering authority (to the extent necessary for the authority to carry out its official responsibilities, when the licensing or registering authority is responsible for licensing or registering the agency or**

business location where the alleged abuse occurred).

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of offender.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-294-N: Notice of Name Placement on Central Registry to Licensing or Registering Authority, Employer, or Entity in Charge of a Paid or Volunteer Activity or CACD-294-N: Notice of Name Placement on Central Registry to Licensing or Registering Authority, Employer, or Entity in Charge of a Paid or Volunteer Activity as appropriate.

(f) **Facility director.**

(1) **Type of allegation.** All maltreatment, only if the maltreatment occurred at the facility, and the facility is licensed or registered by, or is operated by or operated under contract with the State of Arkansas.

(2) **What information.**

(A) Name of offender.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-283-N: Notice of Name Placement on Central Registry to Facility Director or CACD-283-N: Notice of Name Placement on Central Registry to Facility Director as appropriate.

(g) **Director of the Division of Children and Family Services.**

(1) **Type of allegation.** All maltreatment, only if the maltreatment occurred at a facility operated by or operated under contract with the department.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-290-N: Notice of Name Placement on Central Registry to DHS Division Director; Coordinator of Multidisciplinary Team for Offender and Victim; and Circuit Judge and Counsel in Dependency Neglect or FINS Case of Offender.

(h) **Legal parents and legal custodians of the juvenile offender (fourteen (14) through seventeen (17) years of age).**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-284-N: Notice of Name Placement on Central Registry to Legal Parent(s) and Legal Guardian(s) of the Juvenile Offender (14 to 17 Years of Age) or CACD-284-N: Notice of Name Placement on Central Registry to Legal Parent(s) and Legal Guardian(s) of the Juvenile Offender (14 to 17 Years of Age) as appropriate.

(i) **Legal parent or legal guardian of victim in foster care.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the

order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-285-N: Notice of Name Placement on Central Registry to Victim, Legal Parent(s), Legal Guardian(s), and Current Foster Parent(s) of Victim or CACD-285-N: Notice of Name Placement on Central Registry to Victim, Legal Parent(s), Legal Guardian(s), and Current Foster Parent(s) of Victim as appropriate.

(j) **Current foster parent of victim in foster care.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-285-N: Notice of Name Placement on Central Registry to Victim, Legal Parent(s), Legal Guardian(s), and Current Foster Parent(s) of Victim or CACD-285-N: Notice of Name Placement on Central Registry to Victim, Legal Parent(s), Legal Guardian(s), and Current Foster Parent(s) of Victim as appropriate.

(k) **Victim, if fourteen (14) years of age or older.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-285-N: Notice of Name Placement on Central Registry to Victim, Legal Parent(s), Legal Guardian(s), and Current Foster Parent(s) of Victim or

CACD-285-N: Notice of Name Placement on Central Registry to Victim, Legal Parent(s), Legal Guardian(s), and Current Foster Parent(s) of Victim as appropriate.

(l) **Victim, if ten (10) years of age or older.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-285-N: Notice of Name Placement on Central Registry to Victim, Legal Parent(s), Legal Guardian(s), and Current Foster Parent(s) of Victim or CACD-285-N: Notice of Name Placement on Central Registry to Victim, Legal Parent(s), Legal Guardian(s), and Current Foster Parent(s) of Victim as appropriate.

(m) **Attorney ad litem of victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-286-N: Notice of Name Placement on Central Registry to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Victim.

(n) **Court-appointed special advocate of victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-286-N: Notice of Name Placement on Central Registry to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Victim.

(o) **Circuit judge with jurisdiction of an ongoing dependency neglect or FINS case of victim.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim over whom the court has jurisdiction.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-286-N: Notice of Name Placement on Central Registry to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Victim.

(p) **Counsel in dependency neglect or FINS case of a victim in foster care.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not

request a hearing.

(4) **Form.** CFS-286-N: Notice of Name Placement on Central Registry to Circuit Judge, Attorney Ad Litem, CASA, and Counsel in Dependency Neglect or FINS Case of Victim.

(q) **Attorney ad litem of offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-288-N: Notice of Name Placement on Central Registry to attorney ad litem and CASA of offender.

(r) **Court appointed special advocate of offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-288-N: Notice of Name Placement on Central Registry to Attorney Ad Litem and CASA of Offender.

(s) **Circuit judge with jurisdiction of an ongoing dependency neglect or FINS case of offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of offender over whom the court has jurisdiction.

(B) Name of victim.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-290-N: Notice of Name Placement on Central Registry to DHS Division Director; Coordinator of Multidisciplinary Team for Offender and Victim; and Circuit Judge and Counsel in Dependency Neglect or FINS Case of Offender.

(t) **Counsel in dependency neglect or FINS case of an offender in foster care.**

(1) **Type of allegation.** All maltreatment.

(2) **What information**.

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-290-N: Notice of Name Placement on Central Registry to DHS Division Director; Coordinator of Multidisciplinary Team for Offender and Victim; and Circuit Judge and Counsel in Dependency Neglect or FINS Case of Offender.

(u) **Attorney ad litem of child in foster home where maltreatment is reported.**

(1) **Type of allegation**. All maltreatment.

(2) **What information**.

(A) Name of child represented by AAL.

(B) Name of victim.

(C) Name of offender.

(D) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-289-N: Notice of Name Placement on Central Registry to Attorney Ad Litem and CASA of Child in Foster Home Where Maltreatment Is Reported.

(v) **Court appointed special advocate of child in foster home where maltreatment is reported.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of child represented by CASA.

(B) Name of victim.

(C) Name of offender.

(D) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-289-N: Notice of Name Placement on Central Registry to attorney ad litem and CASA of child in foster home where maltreatment is reported.

(w) **Multidisciplinary team for victim or offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information**.

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-290-N: Notice of Name Placement on Central Registry to DHS Division Director; Coordinator of Multidisciplinary Team for Offender and Victim; and Circuit Judge and Counsel in Dependency Neglect or FINS Case of Offender.

(x) **School where juvenile offender, fourteen (14) years of age or older is enrolled.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of offender.

(B) Type of maltreatment.

(C) Services offered or provided by the department.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-291-N2: or CACD-291-N2, as appropriate.

(y) **School where juvenile offender, ten (10) years of age or older is enrolled.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of offender.

(B) Type of maltreatment.

(C) Services offered or provided by the department.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-291-N2 or CACD-291-N2 as appropriate.

(z) **Offender.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not

request a hearing.

(4) **Form.** CFS-292-N1: Notice of Name Placement on Central Registry to School Where Victim Is Enrolled or CACD-292-N1: Notice of Name Placement on Central Registry to School Where Victim Is Enrolled as appropriate.

(aa) **Child safety center, if involved in the investigation.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-295-N: Notice of Name Placement on Central Registry to Child Safety Center Involved in Investigation of Maltreatment or CACD-295-N: Notice of Name Placement on Central Registry to Child Safety Center Involved in Investigation of Maltreatment as appropriate.

(bb) **Mandated reporter.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of victim.

(B) Name of offender.

(C) Type of maltreatment.

(D) Services offered or provided to the victim and offender.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(4) **Form.** CFS-293-N: Notice of Name Placement on Central Registry to Mandated Reporter or CACD-293-N: Notice of Name Placement on Central Registry to Mandated Reporter as appropriate.

(cc) **Offender's employer when other children under the care of the offender may be at risk.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of offender.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing and only if a supervisor has determined that children under the care of the offender may be at risk of maltreatment by the offender.

(4) **Form.** CFS-294-N or CACD-294-N as appropriate.

(dd) **Entity in charge of offender's volunteer activity when other children under the care of the offender may be at risk.**

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of offender.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing and only if a supervisor has determined that children under the care of the offender may be at risk of maltreatment by the offender.

(4) **Form.** CFS-294-N: Notice of Name Placement on Central Registry to Licensing or Registering Authority, Employer, or Entity in Charge of a Paid or Volunteer Activity or CACD-294-N: Notice of Name Placement on Central Registry to Licensing or Registering Authority, Employer, or Entity in Charge of a Paid or Volunteer Activity as appropriate.

(ee) **Licensing or registering authority, if children under the care of the offender may be at risk (to the extent necessary for the authority to carry out its official responsibilities, when the licensing or registering authority is responsible for licensing or registering the agency or business location where**

the alleged abuse occurred or when other children at the agency or business under the care of the alleged offender are at risk or when the licensing or registering authority are responsible for monitoring the professional behavior of the registered or licensed professional who is the alleged offender).

(1) **Type of allegation.** All maltreatment.

(2) **What information.**

(A) Name of offender.

(B) Type of maltreatment.

(3) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing and only if a supervisor has determined that children under the care of the offender may be at risk of maltreatment by the offender.

(4) **Form.** CFS-294-N: Notice of Name Placement on Central Registry to Licensing or Registering Authority, Employer, or Entity in Charge of a Paid or Volunteer Activity or CACD-294-N: Notice of Name Placement on Central Registry to Licensing or Registering Authority, Employer, or Entity in Charge of a Paid or Volunteer Activity as appropriate.

(ff) Employer of any offender in a designated position with a state agency per Arkansas Code § 21-15-110, if a state employee is determined to be an offender or perpetrator in a true, substantiated, or founded report of child maltreatment or adult abuse and the state employee is employed in a "designated position", the investigating agency shall immediately notify the employer of that state employee.

(gg)(1) Per Arkansas Code § 21-15-101, "designated Position" means a position in which a person is employed by a state agency to provide care, supervision, treatment, or any other services to the elderly, to individuals with mental illness or illnesses, or to individuals with developmental disabilities or to children who reside in any state-operated facility or a position in which the applicant or employee will have direct contact with a child or any individual who is elderly or any individual who has mental illness or illnesses or developmental disabilities.

(2) **Type of allegation.** All maltreatment.

(3) **What information.**

(A) Name of offender.

(B) Type of maltreatment.

(4) **When.** Within ten (10) business days after Central Registry receives the order or after thirty-five (35) business days have passed and the offender did not request a hearing.

(5) **Form.** CFS-296-N: Notice of Name Placement on Central Registry to Employer of Offender in a Designated Position with an Arkansas State Agency or CACD-296-N: Notice of Name Placement on Central Registry to Employer of Offender in a Designated Position with an Arkansas State Agency as appropriate.

Authority. Arkansas Code §§ 12-18-105, 20-76-201, 9-28-103.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"01/2020"

Appendix A. Adoption Summary Guidelines

Link:
https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/402/9CARpt.40.AppendixA.AdoptionSummaryGuidelines.pdf

Appendix B. Resource Home Records

Link:
https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/403/9CARpt.40.AppendixB.ResourceHomeRecords.pdf

Appendix C. Case Record Order for Out-of-Home Placement Cases

Link:
https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/404/9CARpt.40.AppendixC.CaseRecordOrderForOutOfHomePlacementCases.pdf

Appendix D. Protocol for Family Service Workers - Responding to Methamphetamine and Meth Lab Exposure of Children

Link:
https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/405/9CARpt.40.AppendixD.ProtocolForFamilyServiceWorkersRespondingToMethamphetamineAndMethLabExposureOfChildren.pdf

Appendix E. Safeguards for Child Victims Testifying in Judicial and Administrative Proceedings

Link:
https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/406/9CARpt.40.AppendixE.SafeguardsForChildVictimsTestifyingInJidicialAndAdministrativeProceedings.pdf

Appendix F. Alternative Compliance and Policy Waiver Protocol

Link:
https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/407/9CARpt.40.AppendixF.AlternativeComplianceAndPolicyWaiverProtocol

.pdf

Appendix G. Arkansas Health and Safety Factors

Link:
https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/408/9CARpt.40.AppendixG.ArkansasHealthAndSafetyFactors.pdf