

---

---

**PART 1. GENERAL PROVISIONS****R400.12101****Definitions**

**As used in these rules:**

- (a) "Act" means Act No. 116 of the Public Acts of 1973, as amended, being §§722.111 et seq. of the Michigan Compiled Laws, and known as the child care organization licensing act.
- (b) "Agency" means a child-placing agency as defined in section 1 of the act.
- (c) "Contribution" means the payment of money or donation of goods or services.
- (d) "Department" means the Michigan department of consumer and industry services.
- (e) "Emergency placement" means a placement that is made in response to a sudden unexpected occurrence which demands immediate action or means a placement that is made before a placement assessment has been completed.
- (f) "Foster child" means a person who meets all of the following criteria:
  - (i) Resides in a foster home.
  - (ii) Is less than 18 years of age or becomes 18 years of age while residing in the foster home and continues to reside in the foster home to receive care, maintenance, training, and supervision.
  - (iii) Is not related to an adult member of the household by blood, adoption, or marriage.
  - (iv) Has been placed in the home by an agency.
- (g) "Foster home" means foster family home or foster family group home, as defined in section 1 of Act No. 116 of the Public Acts of 1973, as amended, being §§722.111 of the Michigan Compiled Laws, and as addressed in Act No. 165 of the Public Acts of 1997, being §§722.118b of the Michigan Compiled Laws.
- (h) "Human behavioral science" means a degree from an accredited college or university equivalent to any of the following:
  - (i) Social work.
  - (ii) Psychology.
  - (iii) Guidance and counseling.
  - (iv) Consumer or community services.
  - (v) Criminal justice.
  - (vi) Family ecology.
  - (vii) Sociology.
- (i) "Independent living" means the placement, by an agency, of a

- youth who is not less than 16 years old in his or her own unlicensed residence, the residence of an adult who does not have supervisory responsibility for the youth, or in a residence under the control of the agency. The authorized agency or governmental unit retains supervisory responsibility for the youth.
- (j) "Licensing authority" means the administrative unit of the department that has responsibility for making licensing and approval recommendations for a child placing agency.
  - (k) "Member of the household" means any person, other than a foster child, who resides in a foster or adoptive home on an ongoing or recurrent basis.
  - (l) "Parent" means a legal parent and includes a custodial parent, noncustodial parent, or adoptive parent.
  - (m) "Permanent placement" means that the treatment plan specifies that the foster child will remain in the current foster home until the age of majority.
  - (n) "Placement" means moving a child to a foster or adoptive home, to independent living, or from out-of-home placement to another out-of-home placement.
  - (o) "Social service supervisor" means a person who supervises a social service worker. A social service supervisor may also function as a social service worker in the temporary absence of the social service worker.
  - (p) "Social service worker" means a person who performs social services functions covered by these rules.
  - (q) "Staff" means a person who is employed by an agency, a volunteer for the agency, or a person who is under contract to the agency to provide specific services covered by these rules.
  - (r) "Substantial noncompliance" means repeated violation of the act or an administrative rule promulgated under the act, or non-compliance with the act, a rule promulgated under the act, or the terms of a license that jeopardizes the health, safety, care, treatment, maintenance, or supervision of individuals receiving services or, in the case of an applicant, individuals who may receive services.
  - (s) "Willful noncompliance" means that after receiving a copy of the act, the rules promulgated under the act, and a copy of the terms of the license if applicable, an applicant or licensee knows or had reason to know that his or her conduct is a violation of the act, the rules promulgated under the act, or the terms of the license.

These are the legal definitions of the terms used in the rules. There are no interpretations known or needed.

**R400.12102****Rule variance**

**(1) Upon the written request of an applicant or agency, the department may grant a variance from an administrative rule if the alternative proposed ensures that the health, care, safety, protection, supervision, and needed services of children are maintained.**

**(2) The decision of the department, including the conditions for which the variance is granted, shall be entered upon the records of the department and a signed copy shall be sent to the applicant or agency. The variance may be time-limited or may remain in effect for as long as the agency continues to ensure that the health, care, safety, protection, supervision, and needed services to children are maintained.**

The term variance means the same thing as exception or exemption in relationship to this rule.

The request for a variance shall be in writing and shall be submitted to the assigned consultant. The approval of a variance may only be granted by the director of OCAL. There is no provision for appealing the denial of a variance.

A variance may be granted to any promulgated rule. A variance may not be granted to the statute unless there is a specific provision in the statute allowing for the granting of a variance.

The request for a variance must include the basis for the request, the method for assuring ongoing compliance with the proposed alternative, the time period for which the variance is needed, and any facts that support that the alternative method of compliance proposed will provide equivalent protection to the health, welfare, safety, and needed services of any children affected as required by the rule.

The decision regarding the granting or denial of a variance will be entered into BITS by central office staff.

**R400.12103****Staff exception**

**An agency who has a person in a position that is regulated by these rules and who was approved before the effective date of these rules shall be considered qualified for the position.**

The effective date of the rules is January 1, 2001. This applies only to the specific position the individual is in and does not transfer to another position in the same agency or to another agency. This does not preclude an agency from requesting a variance to a rule related to qualifications.

**R400.12104**

**Public Review**

**An agency shall make all written policies, procedures, and program statements, required by these administrative rules, available for review by the public.**

There are no interpretations known or needed.

**PART 2. AGENCY  
SERVICES**

**R400.12201**

**Department  
authorization**

**An agency shall comply with the provisions of part 2 of these rules to be authorized by the department to provide regulated services.**

All child placing agencies except Authorized Governmental Units must comply with part 2 of these rules.

**R400.12202****Policy and procedures**

**An agency shall have and follow written policies and procedures for all of the following:**

- (a) Financial stability**
- (b) Facilities**
- (c) Required staff**
- (d) Staff qualifications**
- (e) Staff responsibilities**
- (f) Job descriptions**
- (g) Orientation and training**
- (h) Grievance handling**
- (i) Privacy safeguards**
- (j) Personnel records**
- (k) Record management**

An agency must have policies and procedures that comply, at a minimum, with the requirements in the rules that correspond to the subsections. If an agency's policies and procedures exceed the minimum requirements specified in the rule, the agency is required to follow the written policies and procedures. An agency that does not follow its own policies may be cited as being in violation of this rule.

**R400.12203****Financial stability**

**(1) An agency shall initially and annually develop and implement a plan of financing for the operation of the agency in carrying out its programs and meeting the requirements for licensing. A plan of financing shall include all of the following:**

- (a) A listing of all income sources and the anticipated amount of income for the current fiscal year.**
- (b) An annual budget for the current fiscal year.**
- (c) A copy of the income and expenditures from the previous fiscal year.**
- (d) A copy of the nonprofit tax return from the previous fiscal year.**

**(2) Subdivision (d) of subrule (1) does not apply to a governmentally operated agency.**

This rule does not require that the children's services departments of an agency have a separate budget from the entire agency. The agency must provide the portion of the budget that relates to regulated programs to the consultant at the time of the review

**R400.12204**

**Facilities**

**An agency shall provide and maintain sufficient office space, equipment, and supplies to ensure the delivery of services.**

The agency is expected to have sufficient space to store all active files and closed files for the length of time the agency is required to maintain closed files.

**R400.12205****Required staff**

(1) An agency shall employ or contract for all of the following staff positions:

- (a) Chief administrator
- (b) Social service supervisor
- (c) Social service worker

(2) An agency shall appoint a chief administrator who possesses at least a bachelor's degree from an accredited college or university and 2 years of experience in a human services organization. An agency shall report a change of chief administrator immediately to the department.

(3) An agency shall appoint a social service supervisor who possesses the qualifications specified in either of the following provisions:

- (a) A master's degree from an accredited college or university in a human behavioral science and 1 year of experience as a social service worker in an agency.
- (b) A bachelor's degree from an accredited college or university in a human behavioral science, or in another major where 25% of the course credits earned toward the degree are in human behavioral sciences, and 4 years of experience as a social service worker, 2 years of which shall have been in an agency.

(4) An agency shall appoint a social services worker who possesses at least a bachelor's degree from an accredited college or university with a major in a human behavioral science, or in another major where 25% of the course credits earned toward the degree are in human behavioral sciences.

(5) A person who is employed by the agency or who has a contract with the agency and who fulfills more than 1 function specified by subrule (1) of this rule shall meet the requirements for each position.

(6) If a social service worker also has social service supervisor responsibilities, as permitted under subrule (5) of this rule, then the worker shall not supervise his or her own tasks as a social service worker.

(7) An agency shall employ or contract for a sufficient number of competent staff to carry out the provisions covered by these rules.

(8) The workload for each staff member shall not be more than any of the following:

- (a). Eight social services workers or social service aides per supervisor.
- (b). Thirty children placed in adoption, child foster care, or

**independent living per social service worker.**

**(c). One hundred certified foster homes per social service worker.**

(1) An agency must have at least two employees. There is no prohibition on the agency contracting for one of those employees. An individual may perform more than one regulated function, but may not supervise their own work. (See subparts 5 and 6.)

(2) When a chief administrator leaves and the organization appoints an acting administrator, the change must be reported to OCAL, in writing. An acting administrator must meet the qualifications identified in the rule. A criminal record check and central registry check will be completed on the chief administrator by OCAL.

Immediate notification means no later than the next working day after the chief administrator leaves the position.

(3) A variance is not needed to comply with (b) when the major is not in human behavioral sciences and the agency has evaluated the transcript of an individual and has determined that 25% of the course work was in human behavioral sciences. The agency must be able to document how the determination was made when the consultant is doing the onsite evaluation.

Children's protective services is not a regulated function and does not count as experience as a social services worker when determining if the person is qualified as a social services supervisor.

(4) When the major is not in human behavioral sciences and the agency has evaluated the transcript of an individual and has determined that 25% of the course work was in human behavioral sciences, a variance is not needed. The agency must be able to document how the determination was made when the consultant is doing the onsite evaluation.

When an agency provides field work experience for students, the student must still have an acceptable undergraduate degree or all work must be co-signed by a social services worker who meets the identified qualifications.

(5) This rule does not prohibit an agency from having two individuals who function both as social service workers and social service supervisors and supervise each other's work.

(6) A social services supervisor may be supervising staff who function in capacities other than social services workers or social services aides. These staff are not counted when determining whether the supervisor is within the required workload. If the consultant finds significant violations of the rules and the supervisor is supervising more than eight individuals, some of whom function in non-regulated positions, the consultant may cite the agency for not having sufficient staff to carry out the provisions covered by the rules.

(7) Social services workers may have caseload responsibilities beyond those covered by the rule. The consultant is to ask for a breakdown of the work responsibilities for social services workers who have additional caseload assignments when determining if the workload is within the requirements of the rule. Only those functions covered by the rule, and where the social services worker has primary responsibility, are to be counted when evaluating workload. If the consultant finds significant violations of the rules and the social services worker has additional caseload responsibilities, some of which are not covered by the rule, the consultant may cite the agency for not having sufficient staff to carry out the provisions covered by the rules.

**R400.12206**

**Staff qualifications** (1) An agency shall require a staff member who has ongoing contact with children or parents to be a person who is of good character and emotionally stable and who has the ability, experience, education, and training to perform the duties assigned.

(2) An agency shall have a written assessment of all criminal convictions of prospective staff before hiring or assigning a person to a position covered by these rules. The assessment shall take into account the nature of the convictions, when the convictions occurred, and evidence of rehabilitation.

(1) When there is a rule that deals with a specific problem or issue that has been identified by a consultant, that rule is to be cited. This rule is to be used when there is misconduct by an administrator or staff person that does not fit into another rule.

To cite an administrator for lacking good character, the person must have been convicted of a crime contained in the administrative rules relating to good moral character. The good moral character administrative rules apply to the licensee or licensee designee and not to other staff in the agency.

To cite an individual as lacking emotional stability, there must be confirmation of that information in the form of a diagnosis from an individual qualified and licensed to diagnose emotional illness.

(2) *MCL 722.119 states:*

*(1) A staff member shall not be present in a child care center, child caring institution, or child placing agency if he or she has been convicted of either of the following:*

*(a) Child abuse or child neglect.*

*(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.*

*(2) A volunteer shall not have unsupervised contact with children who are in the care of a child care center, child caring institution, or child placing agency if he or she has been convicted of either of the following:*

*(a) Child abuse or child neglect.*

*(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of offering to volunteer at the child care center, child caring institution, or child placing agency.*

*(3) Before a staff member or unsupervised volunteer may have contact with a child who is in the care of a child care center, child caring institution, or child placing agency, the staff member or volunteer shall provide the child care center, child caring institution, or child placing*

*agency with documentation from the family independence agency that he or she has not been named in a central registry case as the perpetrator of child abuse or neglect. For individuals who are employed by or volunteer at a child care center, child caring institution, or child placing agency, the child care center, child care center, or child placing agency shall comply with this subsection not later than the date on which that child care center's, child caring institution's, or child placing agency's license is issued or first renewed after the effective date of the amendatory act that added this section. As used in this subsection, "child abuse" and "child neglect: mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.*

*(4) Each child care center, child caring institution, or child placing agency shall establish and maintain a policy regarding supervision of volunteers who are parents of a child receiving care at the child care center, child caring institution, or child placing agency.*

Child placing agencies are not required to post whether or not criminal record checks are done on staff. Criminal record checks are not required by the statute or the rule. If the agency has a policy that requires applicants or employees to provide criminal record checks or if the agency does an ICHAT clearance on applicants or employees, the consultant may cite the agency if there is no documentation of the criminal record check.

An OCAL 1326, Criminal Record Check, shall be completed on the chief administrator. For a local DHS office, this is the director of the county DHS. In other CPA's, this is the person who is responsible for the day-to-day operation of the organization that is tied to the specific license number. This person must be located in Michigan.

If a record check has been completed and there is a conviction, or an employee has reported a criminal conviction, the agency must have a written assessment of all convictions, both felony and misdemeanor, before assigning the person to a position covered by these rules. Fraud is an intentional misrepresentation of any material fact and includes bribery, forgery, uttering and publishing and false pretenses. Convictions for domestic violence fall into the category of harm or threatened harm. The written assessment must address the nature of the conviction, when the convictions occurred, and evidence of rehabilitation.

**R400.12207****Staff  
Responsibilities**

- (1) An agency shall designate that the chief administrator is responsible for the day-to-day operation of the agency and for ensuring compliance with the applicable provisions of these rules.**
- (2) An agency chief administrator shall be administratively responsible for all of the following functions:**
  - (a) Not less than once annually, conduct an assessment and verify the agency's compliance with the applicable provisions of these rules.**
  - (b) Develop and implement a written plan to correct, within 6 months, noncompliance identified in subdivision (a) of this subrule.**
  - (c) Assessment of all disrupted and unplanned removals of children from foster homes, independent living, and adoptive homes and correction of the causes of disrupted and unplanned removals.**
  - (d) Develop, maintain, and monitor an outcome measurement system. The measurement system shall contain components that will ensure all of the following:**
    - (i) That the services provided for children, youth, and families comply with the applicable provisions of these rules.**
    - (ii) That positive outcomes for children, youth, and families are produced.**
    - (iii) That risk to children, youth, and families is minimized.**
- (3) An agency shall require that social service workers be directly responsible for all of the following activities:**
  - (a) Placing and supervising children in foster care, adoptive homes, or independent living. Social service workers shall work directly with the children, their families, and other relevant individuals and be primarily responsible for the development, implementation, and review of service plans for the children and their families.**
  - (b) Assessing and certifying private family homes for licensure and supervising the homes.**
  - (c) Conducting adoptive evaluations of private family homes for adoptive placements.**
- (4) An agency shall require social service aides to be directly responsible to a social service worker or social service supervisor. A social service aide may provide clearly defined support functions, but shall not have responsibility for any of the following:**

- (a) Case planning.**
- (b) Selecting placements.**
- (c) Foster home certification.**
- (d) Supervisory placement of children in foster care, adoptive placements, or independent living.**
- (e) Conducting adoptive family evaluations.**

1. The chief administrator must be in Michigan. The person may be responsible for a main location and satellite offices.

2. The assessment required in subpart (2) (a) must be completed on an annual basis, but not at any particular time of the year. The agency must be able to document how they determined compliance. All CWL reading forms are available on the DHS website to provide a tool that agencies may choose to use.

If an agency identifies rule violations, there must be a written plan that identifies how the agency will resolve the problems that created the rule violations. The plan must be achievable within 6 months.

The agency must document how the assessment of disrupted and unplanned removals occurs. The plan to correct any identified causes of disrupted and unplanned removals must also be documented. The intent of this rule is to look at causes and plans for resolving systemic issues that result in unplanned disruptions and removals.

(d) The agency must be able to demonstrate how they monitor outcomes. Whatever system the agency uses must contain all of the elements outlined in this subpart.

(3) and (4) There is a clear delineation between the roles of social service workers and social service aides. The aide may not assume any of the roles of the social services workers. An aide may prepare a report that involves compiling data from other sources if the social services worker co-signs the report.

**R400.12208**

- Job descriptions**
- (1) An agency shall have a current written job description for each staff position.**
  - (2) Each job description shall contain all of the following information:**
    - (a) Prescribed duties and functions.**
    - (b) Specific education, knowledge, experience, and skills necessary to provide services to children and families served by the agency.**
    - (c) Lines of authority.**
  - (3) An agency shall give copies of job descriptions to staff at the time of employment in a specified position and when the job description is revised.**
  - (4) Practice shall conform to the job description.**

All people who work in the organization, including volunteers, must have a job description.

All responsibilities for the operation of the organization are to be covered by the composite of the job descriptions.

Staff must know their job description and to whom they report.

The organization's practices must conform to the descriptions.

An organizational chart is one way to demonstrate how all responsibilities are covered. When an organizational chart is used, lines of authority must be clear.

**R400.12209****Orientation and training**

**(1) An agency shall ensure and document that each social service worker and each social service supervisor receives not less than 16 hours of orientation after initial appointment and before assumption of assigned duties.**

**(2) An agency shall ensure and document that each social service worker and each social service supervisor receives not less than 14 hours of training relating to his or her current position within the first year of being assigned.**

**(3) An agency shall ensure and document that each social service worker and each social service supervisor receives not less than 14 hours of planned training relating to his or her current position annually after the time periods specified in subrules (1) and (2) of this rule.**

**(4) The orientation and training specified in subrules (1) and (2) of this rule for each social service worker shall include all of the following topics:**

- (a) Characteristics and needs of children and families served by the agency.**
- (b) Requirements of applicable statutes relating to the services the agency provides that are subject these rules.**
- (c) Agency expectations for the social service worker to facilitate and supervise the care of children and to work with families that are served by the agency.**
- (d) Agency expectations for the social service worker's role and responsibility with foster parents and other persons who provide care to children and families served by the agency.**
- (e) Agency expectations for developing, maintaining, and reviewing initial and updating service plans for children and families served by the agency.**

There is no requirement in the rule that an agency send staff for training through the Child Welfare Institute.

Shadowing may be a part of orientation but cannot be the only form of orientation. The total number of required hours of orientation must be completed before a social service worker or supervisor assumes sole responsibility for assigned duties.

**R400.12210****Grievance  
handling**

- (1) An agency shall have a written grievance handling procedure.**
- (2) The procedure shall provide for all of the following:**
  - (a) Safeguard the legal rights of children, their families, foster families, releasing parents, and adoptive families served.**
  - (b) Address matters that relate to compliance with the act, rules promulgated under the act, and the agency's written policies and procedures regarding services covered by these rules.**
  - (c) Delineate the method of initiating the procedure.**
  - (d) Specify time frames for decisions.**
- (3) An agency shall provide a grievant with a written copy of the grievance resolution.**

The agency is expected to follow the grievance policy as it is written. The timelines the agency sets forth need to be reasonable and achievable. The agency may need to increase the amount of time for response as the level of review rises in the agency chain of command. Subpart (b) requires that the policy address matters relating to the act, rules, and the agency's written policies. The agency is not required to apply the full grievance policy for complaints that are not related to the act, the rules, or the agency's written policies.

**R400.12211**

- Privacy safeguard**
- (1) An agency shall safeguard the privacy of a child and his or her family.**
  - (2) An agency shall not use a child's identity for publicity unless a positive value accrues to the child.**
  - (3) An agency shall obtain the written consent of a parent or legal guardian before using a child, a picture of a child, or a child's name in any form of agency publicity.**

(1) Foster parents need to be clearly advised regarding providing information about foster children on the internet, including names and pictures.

(2) Implied in the concept of accruing positive value for a child is the child's attitude about the publicity and willingness to participate.

OCAL has no authority to apply this rule to biological children or children whose adoptions are finalized.

**R400.12212**

## Personnel records

- (1) An agency shall maintain a personnel record for each staff member.**
- (2) The personnel record shall contain all of the following information before employment may occur:**
  - (a) Name.**
  - (b) Verification of education.**
  - (c) Work history.**
  - (d) Three references obtained from persons who are unrelated to the staff person.**
  - (e) A record of any convictions as required by R 400.12206(2).**
- (3) The personnel record shall contain both of the following:**
  - (a) A written evaluation of a staff member's performance within a probationary period or not later than 6 months after the staff member assumes his or her current responsibilities. After the initial evaluation, a written evaluation shall be conducted each year.**
  - (b) A copy of the job description for the staff member's current position.**
- (4) An agency shall maintain an orientation and training record for staff members.**

- (1) There must be a personnel file for all staff members, including volunteers and contractual employees.
- (2) (b) Verification of education must be commensurate with that described in the job description, even if that is a greater requirement than the rule requirement.
- (d) References may be in the form of written documentation of conversations or letters of reference. When a person is changing jobs within an agency, annual evaluations related to job function may be accepted as a reference. It is recommended that references be written and dated within the 12 months preceding hire. The name of the person giving the reference and this person's relationship to the employee must be documented.
- (3) When a person changes from one position to another, there is an expectation that there be a review of performance not later than 6 months after the person changes positions.
- (4) Training records must be maintained. They may be maintained in a separate file from the regular personnel record.

**R400.12213****Record  
Management**

**An agency shall do all of the following with respect to maintenance of required records:**

- (a) Protect each record against destruction and damage.**
- (b) Keep each record in a uniform fashion.**
- (c) Store and maintain each record in a manner to ensure confidentiality and to prevent unauthorized access.**

Cross reference R400.12204, R400.12317(4), R400.12420, R400.12509, R400.12608, R400.1271

To ensure that confidential information is safeguarded, it is not appropriate for agency staff to maintain files in their homes. The agency should have specific guidelines regarding what information from files may be taken out of the agency and how the staff person is to guard against destruction, damage, and breach of confidentiality.

R400.12418(2) and R400.12509(2) require that printed service plans be in the youth's case record. The agency is not in compliance with these two rules if service plans are kept electronically. For other types of files, if the agency keeps an electronic file, they must be able to demonstrate that required time frames were met and required signatures obtained as required by the rules or the agency's written policy. Further, the agency must print requested documents for the consultant to review during onsite investigations.

**PART 3. FOSTER  
HOME  
CERTIFICATION****R400.12301****Department  
authorization**

**(1) An agency shall be authorized by the department to certify foster homes for licensure.**

**(2) An approved governmental unit shall comply with the provisions of this part to be authorized to certify foster homes for licensure.**

An agency must be specifically authorized to certify foster homes for licensure.

Courts that certify foster homes for licensure must comply with the rules in Part 3. If a court wants to be an AGU (approved governmental unit) for purposes of being able to borrow foster homes from other agencies, but does not want to certify homes of their own, the court must still comply with rules 302, 303, 305, 307, 311, 315, and 317.

**R400.12302**

**Program statement** An agency shall have and follow a current written program statement that includes all of the following information:

- (a) Types of foster care provided.**
- (b) Age, race, ethnic background, and specific characteristics of children served.**
- (c) Types and numbers of foster homes needed.**
- (d) Types of services provided to foster families.**
- (e) Geographical area covered.**

An agency must have policies and procedures that comply, at a minimum, with the requirements in the rules that correspond to the subsections. If an agency's policies and procedures exceed the minimum requirements specified in the rule, the agency is required to follow the written policies and procedures. An agency that does not follow its own policies may be cited as being in violation of this rule.

**R400.12303****Policy and procedures**

- (1) An agency shall have and follow written policies and procedures for assessing and certifying foster homes for licensure.
- (2) Policies and procedures shall cover all of the following areas and be on forms provided, and in a manner prescribed, by the department:
- (a) Recruitment and retention.
  - (b) Certification training.
  - (c) Application request.
  - (d) Orientation.
  - (e) Application submission.
  - (f) Records check.
  - (g) Initial evaluation.
  - (h) Placement agreement.
  - (i) Foster parent training.
  - (j) Reevaluation.
  - (k) License recommendation.
  - (l) Borrowed home.
  - (m) Special evaluation.
  - (n) Foster home record.

An agency may choose to have written policies that exceed the minimum requirements set forth in these rules. The exception to this is that an agency may not have policies that are discriminate against any group that is protected under the Eliot Larsen Civil Rights Act. When an agency chooses to have policies that exceed the minimum requirements of the rules, the agency is expected to follow their own written policies. When the agency does not comply with the part of their policy that exceeds the minimum requirement, R400.12303(1) is to be cited.

There must be a policy for each of the areas covered in the subsections identified in (2) of the rule. The minimum content is contained in the rules that correspond to each of the subparts of this rule.

**R400.12304****Recruitment and retention**

**(1) An agency shall have an ongoing foster home recruitment program to ensure an adequate number of suitable and qualified homes to meet the needs of children served by the agency.**

**(2) An agency shall develop, implement, and maintain a program of foster home retention that includes foster parent involvement and that identifies the causes of the loss of foster homes and prescribes actions to be taken to retain foster homes.**

If there is a pattern of an agency being cited for placing more children in homes than the licensed capacity or frequently requesting rule variances to place more children in a home than the licensed capacity, the consultant is to consider citing subpart (1) of this rule.

**R400.12305****Certification  
training**

**An agency shall ensure that all supervisors of social service workers who perform certification functions receive certification training provided by the department.**

An agency shall ensure that all supervisors of social service workers who perform foster home certification functions receive certification training provided by the department. There is no requirement for a supervisor to attend certification training more than one time or to have attended it since the revision of this rule if they attended it prior to 2001. The training is available for both certification supervisors and certification workers, however, there is no rule requirement for certification workers to attend the training.

**R400.12306****Application  
request**

- (1) An agency shall document that both of the following conditions are met before providing a person with an application:
- (a) The person expresses a willingness to provide care for the types of children served by the agency.
  - (b) The person has received required orientation.
- (2) An agency shall document that a person who has met the requirements of subrule (1) of this rule has received an application and information regarding all of the following:
- (a) A copy of the act.
  - (b) Administrative rules for foster homes.
  - (c) Administrative rules for child placing agencies.
  - (d) Good moral character rules.
  - (e) The child protection law.
  - (f) The children's ombudsman act.
  - (g) The agency's program statement.
  - (h) The agency's foster care services policies.
  - (i) The agency's foster parent training requirements.
- (3) An agency shall document that the licensee has been given an application for renewal of the license not less than 30 calendar days before the expiration date of the license.

Subpart (1) The agency must have written documentation of the willingness to provide care to the children served by the agency. The statement should clearly indicate that the prospective applicant has been given a copy of the program statement and knows what type of children are served by the agency.

The intent of the orientation occurring prior to the agency giving a person an application is for the agency to provide enough information to the prospective foster parent so the person can make an informed decision regarding whether or not to continue the licensing process.

Subpart (2) When an applicant has completed the agency's orientation, knows what types of children are served by the agency, states that they are willing to provide care to the children served by the agency, and asks for an application, the agency **must** give the person an application. The individual has the right to have a home study and an assessment of whether there is compliance with the applicable rules. The agency **may not** just tell a person or couple that they are not going to get a license based on information obtained during the orientation.

The agency must have written documentation that all of the documents required in subpart 2 have been provided to individuals who have been given an application.

Subpart (3) The agency is required to document that a renewal application has been provided to licensees at least 30 days prior to the expiration date of the license, therefore, the agency may only provide the application during the renewal onsite if the onsite precedes the expira-

tion by 30 or more days. Otherwise, it must be mailed. This does not prohibit the agency from sending the renewal application more than 30 days prior to expiration.

**R400.12307****Orientation**

**An agency foster parent orientation shall consist of all of the following areas:**

- (a) Purposes of foster care.**
- (b) Characteristics and needs of the children placed by the agency.**
- (c) Attachment and separation issues.**
- (d) Impact of fostering on the foster family.**
- (e) Role of the foster family.**
- (f) Licensing process.**
- (g) Grievance procedure.**
- (h) Importance of a child's family.**
- (i) Parent and sibling visits.**
- (j) Agency foster care policies and procedures.**
- (k) Agency foster parent training requirements.**
- (l) Supportive services and resources.**
- (m) Provisions of the children's ombudsman act.**
- (n) Provisions of the child protection act.**

The agency must cover all of the topics identified in the rule. The rule does not specify the level of detail of information that has to be provided in orientation. As noted in rule 306, the purpose of orientation is to provide an overview. There is no requirement that the orientation be provided in a classroom setting. It may be appropriate to do the orientation in the prospective applicant's home.

There is no minimum number of hours required for orientation. Orientation does not transfer from one agency to another.

**R400.12308****Application  
submission**

- (1) An agency shall act on a completed and signed application.**
- (2) An agency shall require both caregivers in a 2-caregiver household to sign the application.**
- (3) An agency may consider an application withdrawn after 60 days if the applicant fails to cooperate with the completion of the licensing process.**

Subpart (1) Once an application has been signed, the applicant(s) have a due process right to have a home study, an assessment of compliance with the applicable rules and a decision regarding whether the agency recommends that the applicant(s) be licensed. If the agency recommends that the applicant(s) be denied a license, the applicant(s) is entitled to an administrative hearing.

Subpart (2) When two adults are married, both must sign the application. When two adult partners are living in the foster home and are not married, the assumption is that both adults will be providing some level of care for foster children and therefore both must sign the application. An adult living in the home who is not a caregiver is also not able to be the substitute caregiver as the person has said they do not provide care. This does not eliminate the requirement that the person be studied as a member of the household.

Subpart (3) There is to be written documentation of the agency's efforts to engage the applicant(s) in completing the process before the application is withdrawn because of a failure to cooperate with the completion of the licensing process.

**R400.12309****Records check**

- (1) An agency shall, upon receipt of an application, initiate a records check of each applicant and each adult member of the household. The check shall pertain to previous licenses, criminal convictions, and substantiated child abuse and neglect records.**
- (2) An agency shall, upon receipt of information indicating a lack of good character or suitability on the part of the foster parent, initiate a new records check.**

Subpart (1) The OCAL 1326, Licensing Record Clearance Request, is to be given to applicants to complete at the same time the application form is signed. An agency may submit the application form and the OCAL 1326 to OCAL for the completion of the records check and enrollment (when needed) immediately after they are signed. New record checks are not routinely needed at the renewal of the license.

Subpart (2) If an agency receives information, from any source, that indicates that the licensee or an adult member of the household has been convicted of a crime or has had involvement with children's protective services, the agency is to obtain new OCAL 1326 forms completed by the licensee or adult member of the household and submit them to OCAL central office for a new records check.

If the person refuses to complete a new OCAL 1326, a form previously signed by the individual in question may be used to obtain the new information. A note should be attached to the form indicating the need for a current clearance and that the person in question was not willing to sign a new form.

**R400.12310****Initial evaluation**

- (1) An agency social service worker shall complete a written initial foster home evaluation before certifying the home for licensure.**
- (2) The report shall include the dates and places of contacts and persons interviewed or observed.**
- (3) The report shall be an assessment of all of the following:**
  - (a) Visits at the residence of the foster home applicants for observations of, and interviews with, each member of the household to determine all of the following:**
    - (i) Marital and family status and history, including current and past level of family functioning and relationships and any incidents of domestic violence.**
    - (ii) Educational history and any special skills and interests.**
    - (iii) Employment history, current financial status, including property and income, money management skills, and outstanding financial obligations.**
    - (iv) Physical, mental, and emotional health of each member of the household.**
    - (v) Strengths and weaknesses of each member of the household.**
    - (vi) Any history of substance abuse of each member of the household.**
    - (vii) Parenting skills and attitudes toward children.**
    - (viii) Methods of discipline of children.**
    - (ix) Adjustment and special needs of the applicant's own children.**
    - (x) Reasons for applying to be a foster family.**
    - (xi) Previous experience in providing child foster care, child day care, or adult foster care.**
    - (xii) Experiences with own parents and any history of out-of-home care.**
    - (xiii) Attitude towards accepting a foster child.**
    - (xiv) Willingness to parent cross-racially or cross-culturally and to create an atmosphere that fosters the racial identity and culture of a foster child.**
    - (xv) Capacity and disposition to give a foster child guidance, love, and affection.**
  - (b) Previous adoption evaluations or placements.**
  - (c) Previous licenses, criminal convictions, and substantiated child abuse or neglect for any member of the household.**
  - (d) Three references from persons not related to the applicants.**
  - (e) A medical statement for each member of the household that indicates that the member has no known condition**

which would affect the care of a foster child. The statement shall be signed by a physician within the 12-month period before the initial evaluation.

- (f) Adequacy of the applicant's house, property, neighborhood, schools, and community for the purpose of fostering as determined by an on-site visit.
- (g) The age, number, sex, race, ethnic background, and the special characteristics of children preferred by the applicants.
- (h) Training needs of the family.

(4) An agency shall document placement specifications consistent with the information contained in the evaluation. The placement specifications shall include the characteristics, age, sex, race, and number of children preferred by the family, of children best served by the home, and of children who may not be placed in the home. The child's racial, ethnic, and cultural identity, heritage, and background may only be considered if an assessment of the individual child indicates that such consideration is in the best interests of the child.

(5) An agency shall inform the applicant that a copy of the initial evaluation is available upon request.

(1) The initial written evaluation of the prospective foster home must be completed prior to making a recommendation to certify the home for licensure.

(2) The list of contacts may include the information regarding orientation sessions the applicants have attended, but this is not required.

(3) The initial evaluation must contain information regarding each of the sub parts of this section of the rule. In fall 2008, BCAL introduced a required format for the initial licensing study. See CPA Letter 2008-01 for further information and required document. Each of the identified topics is to be **assessed**. There must be more than restatements of what the applicant(s) said to be in compliance. If a subpart is not applicable to an applicant, the study must state that fact.

- (a) The language of the rule suggests that more than one visit should be made to complete an initial assessment of the family. No specific number of visits is required, however, at least one visit must take place in the home. Each member of the household must be interviewed and assessed, including minor children. There is no specific age at which interviews of children are appropriate. If children are determined to be too young to interview, the rule still requires that there be information regarding the observation of the relationships of the various family members. The family may not tell a certification worker that children cannot be interviewed. The interviews of the individual

household members must cover all of the items identified in this sub rule. If there is an area where the family has not had experience, that must be stated.

- (i.) Marital and family status and history is to include information about the current marital/partner relationship as well as previous marriages/relationships for both partners. If the applicant has children and the other parent of the child(ren) is not the current spouse or partner, there must be information regarding the relationships that produced the child(ren). Does the parent have ongoing contact with the child(ren)? Does the person pay child support? (etc.)
- (ii.) When the family indicates they are home schooling, the information regarding education must identify what system the parent follows and how the child's progress is evaluated and assessed. Information regarding special skills and interests does not have to be tied to skills and interests that are related to fostering, but if there are skills that would relate to fostering the information should be included. For example, someone who is a nurse might be an appropriate parent for a medically fragile child.
- (iii.) An individual does not have to be employed to become licensed. There must be a legal source of income, but it does not have to be earned income. There is no requirement to verify income, however, when there are questions, the agency should document income. Even if the agency does not choose to verify the income, the income must be verifiable if necessary. No minimum level of income is required, but the family must be able to support themselves without the use of foster care funds. When an applicant states that the source of income is money given from a family member or another individual, the person who gives the money on a regular basis must provide a written statement confirming the amount of the ongoing gifts and that there is an expectation that the gifts will continue for the foreseeable future. The agency must evaluate the family's expenses in relationship to income. Again, if there are questions, the agency may ask the family to document expenses. When evaluating expenses, the agency should ask about all expenses, including food, clothing, entertainment, car insurance, home owner's expenses, etc.
- (iv.) The assessment of physical, mental, and emotional health must be done in relationship to the individual's ability to provide care as well as the individual's care

needs. For example, if there is a physically challenged or emotionally impaired child or a senior citizen living in the home, how much energy is devoted to meeting that person's physical or emotional needs? What impact will the needs or behaviors of the person have on children who might be placed in the home? If someone in the family has had counseling or the couple has had couple's counseling, this must be evaluated. The person who has had counseling (or the parent for a minor) must sign a release to obtain information from the treating therapist. If the therapist is no longer available or the information cannot be obtained, it is up to the agency to determine that the person/couple has adequate mental and emotional health. A new evaluation may be requested when that is appropriate.

If a family member has been hospitalized due to mental health or emotional problems, this also requires careful evaluation. Again, the person who was hospitalized (or the parent of the minor who was hospitalized) must sign a release to obtain information from the treating hospital. If the information cannot be obtained, it is up to the agency to determine that the person/couple has adequate mental and emotional health. A new evaluation may be requested when that is appropriate.

Assessment of an applicant's mental health condition can be particularly difficult. Both state and federal legislation exist to protect against discrimination based on a person's mental disability. The certifying agency's assessment may not be based on generalizations or stereotypes about the effects of a particular disability. Rather, an agency must conduct an "individualized assessment" based on reasonable judgment and relying upon current medical evidence or the best available objective evidence to determine the nature, duration and severity of the person's psychiatric impairment as it relates to parenting foster or adoptive children. See CPA Letter 2008-02 for further information and required documents.

- (v.) Any evaluation of an individual's substance abuse history must be based on that specific person. An agency may not have an arbitrary policy that requires a set period of time after the person has stopped using substances before a license can be recommended or a placement made.
- (vi.) When the applicant(s) has children, general beliefs about child raising are to be explored. When the

- agency is evaluating a two parent family, the agency is to address the attitudes and beliefs of both individuals and ask how differences of opinion are worked out. The place of children in the family and the status of children in the family are to be explored. When the applicant(s) does not have children, the agency is to ask about relevant experiences with children.
- (vii.) The discussion of discipline techniques is to cover the attitudes and beliefs of the applicant(s) regarding how both positive and negative behaviors of children are handled.
  - (viii.) It is critical to thoroughly discuss discipline practices and beliefs about effective methods of discipline. There should be a frank, open discussion about the problems created when there is a different approach to discipline for the applicant's birth or adopted children and foster children. Applicants must agree to follow the agency's discipline policy.
  - (ix.) If the applicant(s) has children, whether minor or adult, the adjustment and special needs of those children must be addressed. Adult children must be contacted either in writing or by telephone. All children are to be asked about their perspective on their parents' parenting skills and methods of behavior management. When adult children have had, or currently have, adjustment issues relating to employment, substance abuse, imprisonment, or other issues, the assessment of the parent's role and responsibility for the adult child's problems must be individually assessed.
  - (x.) The agency may report what the applicant(s) says about strengths and weakness of individuals or their partner, but the agency must evaluate the statements of the person. The agency is also to evaluate the strengths and weaknesses of each individual in the home.
  - (xi.) This section should be a brief overview of the applicants' childhood and growing up experiences. If either or both applicants was ever placed out of the parental home, either with relatives, others, or in foster care, the circumstances that necessitated the placements should be identified as well as the person's feelings about those experiences. If there was no history of out of home care, that must be stated.
  - (xii.) There must be a statement of why the person has made the decision to apply for licensure. If the initial response is broad, such as, "I love children" or "I want to help children", there should be some exploration of what those

- statements mean. If the reason given indicates a lack of understanding of the system, there should be evidence that the certification worker has provided enough information to assist the person in understanding the issues of the foster care system.
- (xiii.) The applicant is to be asked specifically if they have been licensed for foster care, day care, or adult foster care in the past. If the person has been licensed in the past, the applicant's experiences as a licensee are to be discussed. If they have not been licensed, that is to be noted.
  - (xiv.) Examples of issues that should be explored are: What will the family do to insure that a foster child is included as a member of the household? How will the family treat foster children in the areas of contact with extended family? Do all family members have similar meals? Are all children in the family disciplined in the same manner? Etc.
  - (xv.) An agency may ask if an applicant is interested in parenting a child of a different race or culture. Federal law prohibits the agency from assessing the capability or appropriateness of the person to parent cross racially or cross culturally. If an applicant expresses a desire to parent children of a different race or culture, the agency may ask how the individual will create an atmosphere that is comfortable for the child and affirms the child's race or culture. This is the one area where the agency is to simply restate what the applicant has stated and not assess the information.
- (b) If there have been previous evaluations for adoption or adoptive placements, the differences, if any, between those evaluations and the current evaluation are to be identified. If there have been no previous evaluations, this is to be stated. If children were placed for adoption, there is to be an assessment of the adoptive placement, if that is not identified earlier in the study. If previous adoptive placements have failed, the reasons for the placement failing must be discussed and assessed.
  - (c) There is to be an assessment of the information that is reported back on the OCAL 1326 related to previous licenses, criminal convictions and substantiated child abuse or neglect for all adult members of the household. If a household member reports one of these things and the information is not noted on the OCAL 1326, the agency may need to secure local police record checks or information from the county DHS office.
  - (d) References must be completed within the 12 months prior to

---

the effective date of an original license. No specific format is required for references. If the reference is obtained verbally, either face to face or by telephone, there must be written documentation of the date the reference was obtained, the content of the conversation, the name and relationship of the person providing the reference as well as the name of the person taking the verbal information. The person taking a verbal reference must be qualified as a social service worker.

- (e) The OCAL medical form is not required for medical information. The medical statement must have been signed within the 12 months prior to the effective date of the original license. The ability to provide care as well as the care needs of all household members must be assessed and the statement signed by a physician, either an MD or a DO, or a licensed nurse practitioner or physician's assistant.
- (f) An onsite visit to the home is required to determine compliance with section 3 of the foster family home rules. If there are natural or manmade hazards on or near the premises, i.e. lakes, rivers, swimming pools, undeveloped land, busy highways, farm equipment, etc., they must be assessed in the context of the types of children appropriate for care in the home. If necessary, a safety plan should be identified prior to any child being placed into the home.
- (g) The applicant's initial thoughts about the types children they wish to parent are to be identified.
- (h) The agency must assess training needs of the family as specific topics and classes, not just a number of hours. The training should be focused on being able to provide services to the types of children served by the agency. The assessment of training needs must be an evaluation of areas where the foster parent(s) need more training or would benefit from additional training. It is not acceptable to simply list the training the foster parent(s) have had or to state a number of hours with no topics identified.

(4) The agency is to identify the specific types and numbers of children that the applicant is qualified to care for and the types of children that are not appropriate for the family. The recommendation must take into account all of the information in the study, not just the wishes of the foster home applicant. A family should not be licensed for children they have stated they do not want to work with. If an agency is in the habit of recommending all families for licensure for the maximum number of children who will fit into the home and always recommends ages birth through 17 years of age, this may be evidence the agency is not making recommendations that match the content of the study.

It is up to the agency to determine how they notify applicants that a copy of the initial evaluation is available. Interviews with foster parents may be a way of determining if an agency is complying with this subsection.

**R400.12311****Placement  
agreement**

**(1) An agency shall have a written placement agreement signed by the foster parent and the agency before initially certifying a foster home for licensure.**

**(2) The placement agreement shall contain all of the following provisions:**

**(a) The responsibilities of the agency.**

**(b) The services to be provided to foster children and the foster family.**

**(c) The responsibilities of the foster family.**

**(d) That the foster family has been informed of, and agrees to follow, agency policies and procedures.**

**(3) An agency shall review the agreement with the foster family at least annually and, when needed, develop a new agreement.**

**(4) An agency shall give a foster family a copy of the signed current placement agreement.**

**(3) The agency is to document in the annual study that the agreement has been reviewed or there must be annually dated signatures on the agreement indicating that the foster family has reviewed the agreement.**

**R400.12312****Foster parent training**

- (1) An agency shall develop a foster parent training plan with the participation of foster parents.**
- (2) The foster parent training plan shall provide for all of the following:**
  - (a) The individual training needs of the foster parents.**
  - (b) Not less than 12 hours of training to be completed not later than the end of the original 6 month licensing period and before the placement of a child. Not more than 6 hours of the orientation may be included as part of the 12 hours of training.**
  - (c) Not less than an additional 12 hours of training during the next two years after the original licensing period.**
  - (d) Not less than 6 hours of training annually after the time periods specified in subdivisions (b) and (c) of this sub-rule.**
- (3) The training specified in subrule (2)(a), (b) and (c) of this rule shall address all of the following areas:**
  - (a) Characteristics and needs of children.**
  - (b) Characteristics and needs of children.**
  - (c) Effective parenting.**
  - (d) Behavior management.**
  - (e) Importance of the foster child's family.**
  - (f) Role of the agency.**
  - (g) Emergency procedures, first aid, and fire safety.**
  - (h) Preparation of the foster child for independence.**
- (4) An agency shall document all training received by each foster parent.**

(1) This is intended to be an overall plan for training of the agency's foster parents. Foster parents must be a part of developing the overall agency training plan. Training does not have to be delivered in a classroom. Books, videos, internet classes, etc. may be a part of the training plan. It is up to the agency to determine how many training hours are counted for these types of training. There must be some mechanism for documenting that the foster parent completed training and that some content was learned, i.e., a brief written summary of what was learned given to the certification worker, a discussion with the certification worker to ask questions, a certificate of completion, etc. Support groups may not count as training unless there is a specific training topic that is covered during the support group session. If a foster parent is taking college classes, the content must be relevant to fostering for it to count as training. Again, the agency must determine the number of

hours of the class that are related to fostering and may choose to give credit up to the number of credit hours the person is earning. When the class is offered in an academic setting, it is not appropriate to give credit for the total number of clock hours spent in the class.

- (2) (a) The intent of this subpart is that the agency must identify, as a part of the training plan, how the training needs of individual foster parents will be met. This requires that each individual named on the license must have training needs assessed and must have the required number of training hours, as specified in subparts b, c, and d. This does not state that there may not be a standardized training program for most foster parents, but rather that there must be a way to determine if there are specific needs for specific foster parents that are not covered in the standardized training plan. PRIDE training is not a requirement of this rule. If an agency chooses to use PRIDE training, there must still be assessments of individual needs. Cross reference rule 310 (3) (h) and rule 313 (2) (c).
- (b) Training delivered prior to the signing of the application is orientation. No more than 6 hours of training delivered prior to the signing of the application form may count toward the 12 hour requirement. When relatives are being licensed and the children are already in the home, the 12 hours of training must be completed prior to beginning payments and considering the children “placed” as foster children.
- (3) The topics identified in this subpart must be covered within the first 2 ½ years of licensure.
- (4) It is up to the agency to determine how training is documented, but it must be documented for each person separately.

**R400.12313****Reevaluation**

**(1) An agency shall conduct an on-site visit and complete a written reevaluation of a foster home annually.**

**(2) The annual reevaluation shall include a determination and assessment of all of the following:**

**(a) All changes to the factual information contained in the initial evaluation and subsequent renewal evaluations.**

**(b) Family functioning and interrelationships as determined by observation of, and interviews with, each member of the household and each social service worker who has had children placed in the home during the last licensing period.**

**(c) Training needs of the family.**

**(d) Compliance with the licensing rules for foster homes.**

**(3) An agency shall record the dates and places of contacts and persons interviewed or observed as part of a reevaluation.**

**(4) An agency shall document placement specifications consistent with the information contained in the reevaluation. Placement specifications shall include the characteristics, age, sex, race, and number of children preferred by the family, of children best served by the home, and of children who may not be placed in the home. The child's racial, ethnic, and cultural identity, heritage, and background may only be considered if an assessment of the individual child indicates that such consideration is in the best interests of the child.**

**(5) An agency shall notify the foster parent that a copy of the reevaluation is available upon request.**

**(6) An agency shall complete a reevaluation and shall make a licensing recommendation before the expiration date of the foster home license.**

**(2) (b) All family members must be seen. If children are old enough to talk, the worker should interview the child based on the child's developmental level. Observations of family relationships and how family members interact with each other must be documented in the annual assessment. It is acceptable to have a written questionnaire to obtain feedback from caseworkers that have had children placed in a home.**

**(c) The assessment of training needs must be an evaluation of areas where the foster parent(s) need more training or would benefit from additional training. It is not acceptable to simply list the training the foster parent(s) have had or to state a number of hours with no topics identified.**

**(d) The OCAL 3080 must be completed at each interim and renewal visit to document whether there is compliance with the licens-**

ing rules.

(4) The agency is to identify the specific types and numbers of children that the applicant is qualified to care for and the types of children that are not appropriate for the family. The recommendation must take into account all of the information in the study, not just the wishes of the foster home applicant. A family should not be licensed for children they have stated they do not want to work with. If an agency is in the habit of recommending all families for licensure for the maximum number of children who will fit into the home and always recommends ages birth through 17 years of age, this may be evidence the agency is not making recommendations that match the content of the study.

Interim evaluations must be completed between 11 and 13 months from the most recent renewal date. Renewal evaluations must be completed and signed by the certification worker and the supervisor prior to the expiration date of the license. The written renewal evaluation must be completed prior to the OCAL 3706 being submitted to the department requesting renewal of the license.

**R400.12314****License  
recommendation**

(1) An agency shall recommend to the department the appropriate licensing action based on facts contained in the foster home evaluation and any special evaluations.

(2) An agency shall document foster home license changes in the foster home record and shall communicate the changes immediately to the department in the manner prescribed by the department.

(3) Except for an original license, an agency shall recommend to the department the issuance of a regular license only when both of the following conditions exist:

- (a) All noncompliances relating to the recommendation are correctible.
- (b) A written corrective action plan has been developed. The plan shall be in compliance with all of the following requirements:
  - (i) Specify the methods, the persons responsible, and the time frames for correction.
  - (ii) Require that the corrective action be completed within the period of the license.
  - (iii) Be signed and dated by the foster parent and the agency.

(4) Except for an original license, an agency shall recommend to the department the issuance of a provisional license only when both of the following conditions exist:(

- (a) The agency complies with subrule (3) (a) and (b) of this rule.
- (b) The foster parent has been informed, in writing, of the facts and the basis for the provisional license.

(5) An agency shall recommend to the department denial of license issuance, the revocation of a license or the refusal to renew a license only when both of the following conditions exist:

- (a) The foster parent falsifies information provided during the licensing process or willfully and substantially violates the act, the licensing rules for foster homes, or the terms of the license.
- (b) The applicant or the foster parent has been informed, in writing, of the facts and the basis for the recommended action.

(6) An agency shall provide the department with all requested documentation that is related to an agency recommendation or a department licensing action.

(7) An agency shall participate in, and present facts at, at foster home licensing administrative hearing to support an agency recommendation or a department licensing action.

(1) This may be cited when information contained in the file is not adequately assessed leading to a recommendation that does not reflect all factors that should have been considered.

(2) All changes to the terms of the license must be documented in either an updated foster home study or in an addendum to the most recent foster home study. The agency must complete the documentation prior to making placements of children into homes outside of the terms of the existing license. The OCAL 3706 must be sent to OCAL prior to or on the same day that any placements are made based on the changed license terms.

**R400.12315****Borrowed home**

- (1) Before placing a child in a foster home certified by another agency, an agency shall have a record containing all of the following documents:**
- (a) Prior approval from the certifying agency authorizing the placement of a child in the home.**
  - (b) Documentation that the foster parent is willing to accept the foster child.**
  - (c) A copy of the initial evaluation with written endorsement by the borrowing agency that the evaluation is acceptable.**
  - (d) A copy of the current reevaluation with written endorsement by the borrowing agency that the evaluation is acceptable.**
  - (e) A list of all children currently placed in the home.**
  - (f) Documentation that the foster parent has received orientation to the policies of the borrowing agency.**
  - (g) A copy of the placement agreement signed by the foster parent and the borrowing agency.**
  - (h) A copy of the current license certification documents from the certifying agency.**
  - (i) A copy of all special evaluations completed during the last 2 years.**
- (2) The certifying agency is responsible for certification functions, including special evaluations, and shall share all information regarding changes in the home with all agencies that have children in placement in the home.**

When an agency borrows a home from another agency, it is required that all of the permissions and information identified in subrule (1) be received prior to the child being placed. Permission to use a borrowed home is only good for the specific placement. If an agency wants to make additional placements into the same home, another agreement and updated information is required.

No CPA has permission to use the homes of another agency without the written prior permission of the certifying agency. This includes a DHS office placing a child in a home certified by another DHS office. The intent of the borrowed home rule is that all of the information identified in subpart (1) should be in the borrowed home file on an ongoing basis to ensure the well being of all children in the home. The rule, however, makes it the responsibility of the lending agency to send updated information. While the borrowing agency may not be cited for not having current information other than at the time of the placement of each child, agencies should be strongly encouraged to obtain all of the identified information on an ongoing basis. If an agency is lending a

home to another agency, that agency is to be advised that they are required under subpart (2) to send information on an ongoing basis. (1)(c) requires written endorsement of the study from the borrowing agency. There must be either a signature or some other indication the borrowing agency accepts the study as written. If the borrowing agency does not find the study acceptable, the borrowing agency is responsible for adding an addendum to the study to correct or add any needed information.

**R400.12316**

- Special evaluation**
- (1) An agency shall do both of the following when information is received that relates to possible noncompliance with any foster home rule:**
    - (a) Notify the department's licensing authority within 5 working days.**
    - (b) Initiate a special evaluation of the foster home as soon as is indicated, based on the information received, but not later than 7 calendar days after receipt of the information.**
  - (2) An agency shall inform foster parents of all of the following before they are questioned or interviewed regarding a special evaluation:**
    - (a) That a special evaluation has been initiated.**
    - (b) A clear description of the allegations.**
    - (c) That the foster parents have an option to involve a person of their choice in any interviews with them involving the special evaluation if the involvement does not impede the timely completion of the evaluation.**
  - (3) An agency shall complete a special evaluation within 45 calendar days after receipt of the information. If additional time is required, then the agency shall inform the foster parent, in writing, of the basis for the extension.**
  - (4) Before completion of the written report required by subrule (5) of this rule, an agency shall provide the foster parent with a verbal summary of the preliminary findings at the conclusion of the evaluation.**
  - (5) Upon completion of the evaluation, an agency shall prepare a written report that includes all of the following information:**
    - (a) The date the information was received.**
    - (b) Identification of the information source, unless anonymous or confidential, as specified in Act No. 238 of the Public Acts of 1975, as amended, being §§722.621 et seq. of the Michigan Compiled Laws, and known as the child protection law.**
    - (c) The allegations.**
    - (d) Dates and places of contacts, names of persons interviewed, and names of the interviewers. If children are interviewed, their last names shall not be included in the report.**
    - (e) Findings of fact, based upon the evaluation.**
    - (f) Conclusions regarding licensing rules compliance or non-compliance based on the findings of fact.**
    - (g) Any change in the agency's decision regarding the number, sex, age, race, ethnic background, and specific char-**

**acteristics of children who may be placed that is based upon the documentation contained in the summary and conclusions of the report.**

**(h) Recommendations regarding licensing action and any required corrective action.**

**(6) An agency shall do both of the following:**

**(a) Provide the foster parent with a copy of the report required by subrule (5) of this rule within 10 calendar days of its completion.**

**(b) Inform the foster parent, in writing, that he or she has a right to have his or her written response included as an attachment to the report required by subrule (5) of this rule.**

(1) The agency is responsible for the time frames in this rule from the date that the information is received by anyone in the agency, not from the date the certification worker receives the information nor from the date the agency decides to open a special evaluation.

(a) The method for notification is for the child placing agency to complete the OCAL 259 and submit it to OCAL central office. The OCAL 259 must be date stamped in central office OCAL within 5 working days of receipt of the information.

(2)(c) If the foster parent chooses to involve another individual in interviews, the purpose of the involvement is to provide support for the foster parent. The support person may not answer questions for the foster parent or interfere with the certification worker's investigation. This is not changed when the support person is an attorney.

**R400.12317****Foster home record**

- (1) An agency shall maintain a foster home record for each foster home.**
- (2) The record shall contain all of the following information:**
  - (a) All documents pertaining to certification of the home.**
  - (b) Any special evaluation reports.**
  - (c) Placement agreements between a foster parent and the agency.**
  - (d) A placement list of all children placed in the foster home, including all of the following information about each child:**
    - (i) Name, age, sex, and race of the child.**
    - (ii) Date of placement.**
    - (iii) Date of, and reasons for, a child's removal**
    - (iv) from the foster home.**
  - (e) Any written response from a foster parent, as provided by R 400.12316(6)(b).**
  - (f) Zoning approval if a foster family group home.**
- (3) An agency shall make copies of a record available to the applicant or licensee upon request, except for the following items:**
  - (a) Pending evaluation reports and documents.**
  - (b) Records of privileged communication.**
  - (c) Criminal records, police reports, child protective services information, and social security numbers from any source.**
- (4) An agency shall maintain records for not less than 3 years after closure.**

(2)The only document that is to be purged from a foster home file is a printout that may come attached to an OCAL 1326 when there are convictions. If the printout is from ICHAT, it may be retained in the file. The LEIN printout of convictions is to be retained until a licensing action has occurred, i.e., the license is opened, the disciplinary action that is recommended has been finalized, etc. The printout is to be destroyed at the appropriate time. Complaint investigations are to be retained in the file as long as the license is open, even if there were no violations. Notes that are taken in the process of obtaining information to write an initial or annual evaluation or a special evaluation are to be destroyed when the final report is written. The report should contain any information from the notes that is relevant, thereby eliminating the need to retain the notes.

(3) An agency may charge a reasonable fee for copying a file for a foster home applicant or licensee. This does not apply to copying a file in response to a request from the FOIA co-ordinator for OCAL.

**PART 4. FOSTER  
CARE SERVICES**

**R400.12401**

**Department  
authorization**

**An agency shall be authorized to receive children for placement in  
licensed foster homes.**

There are no interpretations known or needed.

**R400.12402**

- Program statement** An agency shall have and follow a current written program statement that includes all of the following information:
- (a) **Types of foster care provided.**
  - (b) **Age, race, ethnic background, and specific characteristics of children served.**
  - (c) **Types of services provided to foster children and their families.**
  - (d) **Geographical area covered.**

An agency must have policies and procedures that comply, at a minimum, with the requirements in the rules that correspond to the subsections. If an agency's policies and procedures exceed the minimum requirements specified in the rule, the agency is required to follow the written policies and procedures. An agency that does not follow its own policies may be cited as being in violation of this rule.

**R400.12403****Policies and procedures**

**(1) An agency shall have and follow written policies and procedures for the foster care services provided.**

**(2) The policies and procedures shall cover at least of all the following areas:**

- (a) Placement**
- (b) Change of placement**
- (c) Behavior management**
- (d) Religion**
- (e) Mail**
- (f) Education**
- (g) Personal possessions, allowance, and money**
- (h) Clothing**
- (i) Emergencies**
- (j) Medical and Dental Care**
- (k) Substitute care**
- (l) Unusual incidents**
- (m) Hazardous materials**
- (n) Foster Parent information**
- (o) Service plans**
- (p) Visitation**
- (q) Foster care record**

**(3) An agency shall provide a copy of the policies and procedures to the foster parents of a home where the agency places a child.**

An agency must have a specific policy for each of the subsections identified in the rule. The minimum content of the policy is specified in the rules.

If a private agency is under contract to the Department of Human Services and agrees, as part of the contract, that DHS policies and procedures will be followed, the agency must follow those policies. An agency may also have policies that exceed the minimum standards set forth in the rules. If an agency's policies exceed the minimum standards, the agency is accountable for following their own policies.

**R400.12404****Placement**

- (1) An agency shall only place a child in a licensed foster home, except as permitted in R400.12709.**
- (2) An agency's placement of a child in a foster home shall be consistent with the placement specifications for the home.**
- (3) An agency shall consider all of the following factors in selecting an appropriate placement for a child:**
  - (a) The permanency-reunification goal for the child**
  - (b) The physical, emotional, and educational needs of the child.**
  - (c) Expressed preferences of the foster child**
  - (d) Placement of the child with relatives.**
  - (e) Placement of the child with siblings.**
  - (f) The child and child's family's religious preference.**
  - (g) The continuity of relationships, including relationships with parents, siblings, relatives, foster parents, and other persons significant to the child.**
  - (h) The availability of placement resources for the purpose of making a timely placement.**
- (4) The child's racial, ethnic, cultural heritage, and background may only be considered if an assessment of the individual child indicates that such consideration is in the best interests of the child.**
- (5) Before the placement of a child, an agency shall prepare the child for placement consistent with the child's age, individual needs, the circumstances necessitating placement, and the special problems presented.**
- (6) An agency shall document, in the child's record, within 7 calendar days after placement, the information specified in R400.12417(1) as well as all of the following information:**
  - (a) All of the following child characteristics**
    - (i) Sex**
    - (ii) Race**
    - (iii) Height and weight**
    - (iv) Eye color and hair color**
    - (v) Identifying marks**
    - (vi) Religious preference**
    - (vii) School status**
  - (b) Name, known addresses, and marital status of the child's parents or legal guardians, if any.**
  - (c) Names, ages, and known addresses of any siblings.**
  - (d) Known names, addresses, and dates of any previous out-of-home placements.**

- (e) **The date that the agency received the child for placement.**
  - (f) **The child's legal status and the agency's legal right to provide care.**
  - (g) **Documentation of the child's placement preparation.**
- (7) An agency shall make every reasonable effort to maintain a stable foster care placement for each child placed in foster care. The efforts shall be documented in the child's record.**

(1) Any placement made by a licensed or approved child placing agency must comply with this subsection of the act, regardless of who within the agency makes the placement. This includes placements made by Children's Protective Services, as placement of children into foster homes is a regulated activity.

(2) Cross reference R400.12310(4) and R400.12313(4).

(3) All of the placement selection criteria must be assessed at the time of the initial placement, at the time of the initial service plan and any time there is a change of placement. The agency should be able to document how each of the criteria were considered.

(4) The statement, "Too young to prepare" is not sufficient to meet the requirements of this subsection. Preparation for placement may include preparing the foster parent with information regarding the child's habits, feeding preferences, etc. as well as talking with the child regarding the move.

(5) All required information must be documented, even if the information is not in a single document.

Rule 405 deals with the documentation related to moves. The intent of this rule is to make it clear that placements are to be maintained whenever possible and that the agency has an obligation to assist foster families in meeting the needs of children to avoid disrupting placements.

**R400.12405****Change of placement**

(1) An agency shall give first consideration to returning the child to the parent or to placing the child with a relative when a change is indicated.

(2) The agency shall document all of the following in the child's record before a change of placement occurs:

- (a) Reason for the change in placement.
- (b) Supervisory approval before the change.
- (c) If the child is not returned to the parent or placed with a relative, then the reason why return or placement is not possible.
- (d) Replacement preparation appropriate to the child's capacity to understand, which includes an explanation as to why the change is necessary.
- (e) Notification to the parents and referral source of the change in placement.
- (f) Information about the child shared with the new placement.
- (g) The child's new location and address.
- (h) That the current foster parent was notified in writing of the following information:
  - (i) Not less than 14 days in advance, of the change, except when the prior notification would jeopardize the child's care or safety. If prior notice is not provided, then the agency shall notify the foster parent at the time of the change, why prior notice was not given.
  - (ii) Of the current foster parent's right concerning the change in placement.

(3) If an emergency change in placement is necessary, then all of the documentation required in subrule (2) of this rule shall be in the child's record within 14 days after the change in placement.

(4) If an agency is no longer providing services to the child in a foster home, then both of the following shall be documented before a change in placement:

- (a) A summary of the services provided during care up to the time of the change in placement and the needs that remain to be met.
- (b) Provision for any continuing services.

The intent of this entire rule is to ensure that all of the factors related to moves of children are clearly documented in the file and that careful consideration is given to the new placement the agency chooses when

a move is necessary.

When a significant number of children have been moved from one foster home to another during a review period, this may be an indicator that:

- foster parents recruited do not meet the needs of the children served;
- the agency does not provide the necessary training and support for either workers or foster parents;
- family and children assessments are not adequately completed resulting in poor matches between children and foster families.

The requirements of this rule apply to any change of placement type, including:

- a move from a foster home to an unlicensed relative;
- a move from one foster home to another foster home;
- a move from a foster home to a residential placement;
- a move from a foster home to independent living; or
- a return home from foster care.

**R400.12406****Behavior management policy**

**(1) An agency's behavior management policy shall identify appropriate and specific methods of behavior management for foster children.**

**(2) An agency shall ensure that methods of behavior management, for a foster child, are positive and consistent, based on each foster child's needs, stage of development, and behavior and promote self-control, self-esteem, and independence.**

**(3) All of the following types of punishment of a foster child are prohibited:**

- (a) Physical force, excessive restraint, or any kind of punishment inflicted on the body, including spanking.**
- (b) Confinement in an area such as a closet or locked room.**
- (c) Withholding necessary food, clothing, rest, toilet use, or entrance to the foster home.**
- (d) Mental or emotional cruelty.**
- (e) Verbal abuse, threats, or derogatory remarks.**
- (f) Prohibiting visits or communication with a foster child's family.**
- (g) Denial of necessary educational, medical, counseling, or social work services.**

**(4) A foster parent may use reasonable restraint to prevent a foster child from harming himself or herself, other persons, or property, or to allow the child to gain control of himself or herself.**

Case plans for specific foster children that identify child management plans, required in rule 418 (5)(g) and (6)(g), should reflect the agency's preferred methods for dealing with behaviors.

The behavior management policy should, as noted in subpart 2, identify those things that are positive ways of encouraging and promoting good behavior rather than only identifying the types of behavior management that are prohibited.

**R400.12407**

**Religion policy**

**An agency's religion policy shall, at a minimum, ensure that the foster child has the opportunity to receive religious instruction and attend religious services.**

The intent of the rule is that foster children should be given the opportunity to attend services, but not that religious instruction or attendance is required.

**R400.12408****Mail policy**

**An agency's mail policy shall ensure that a child may send and receive mail.**

The agency mail policy should address:

- The circumstances under which mail may be withheld from a child;
- What happens to mail that is withheld;
- Whether packages may be opened prior to a child receiving the package;
- The circumstances under which a child may be prevented from sending mail;
- Whether mail must be sent to the agency rather than the foster home.

**R400.12409****Education policy**

**An agency's education policy shall ensure that, within 10 school days of placement, an agency shall provide for the enrollment of each child of school age, as defined by state law, into a school program.**

The agency must be able to document that they have provided authorization to a foster parent to enroll a child in school. If the foster parent has trouble getting a school to accept a foster youth, it is the responsibility of the agency to intervene and assure that the child is enrolled in school within 10 school days of the placement.

There is no prohibition on private schools or charter schools, as long as the school is accredited. Home schooling is not prohibited. The agency must make a determination that any non-public school program will meet the needs of the individual child. If a child is going to be home schooled, the agency must assess the ability of the individual foster parent to provide adequately for the child's education. The assessment that a program will meet a child's needs must be documented in the child's file.

**R400.12410****Personal possessions, allowance, and money policy**

**An agency's personal possessions, allowance, and money policy shall, at a minimum, address both of the following:**

- (a) Payment of, and accounting for, allowance, social security benefits, and other benefits to a foster child.**
  - (b) Assuring that a child has a right to have his or her personal possessions during placement with a foster family and when leaving the foster family.**
- (a) This rule does not mandate that an allowance be given directly to a foster youth. The agency must have a clear policy that specifies expectations regarding how the daily reimbursement rate is to be spent.
- (b) The intent of this subsection is that a child's possessions continue to be identified as his possessions while in care. When the child leaves care or leaves the foster home to move to another foster home, the child can take his possessions with him. Gifts that are given to a child are the child's property and are his when he leaves the foster family.

**R400.12411**

**Clothing policy**

**An agency's clothing policy shall, at a minimum, ensure that each foster child has sufficient amount of clothing that is appropriate as to size and season and that is in good repair.**

There are no interpretations known or needed.

**R400.12412**

- Emergency policy**
- (1) An agency's emergency policy shall, at a minimum, contain provisions for ensuring that a foster parent has agency-approved written procedures for each of the following emergencies:**
- (a) Fire**
  - (b) Tornado**
  - (c) Serious accident or injury**
- (2) An agency shall approve the written evacuation plan for a foster home that provides care for a person who requires assistance to evacuate the home.**

There is no requirement that a copy of the foster home's policies be in the certification file.

**R400.12413****Medical and dental care policy**

- (1) An agency's medical and dental care policy shall, at a minimum, include all of the following:
- (a) The provision of routine medical care.
  - (b) The provision of emergency medical, surgical, and dental care.
  - (c) A physical examination for each child as follows, unless a greater frequency is medically indicated:
    - (i) For a child under 2 years of age, a physical examination shall have been completed within 3 months before being placed in foster care or a new physical examination shall be completed within 30 calendar days after being placed in foster care.
    - (ii) For a child 2 years of age or older, a physical examination shall have been completed within 12 months before placement or a new physical examination shall be completed within 30 calendar days after placement.
    - (iii) A physical examination every 14 months.
  - (d) Current immunizations for each child as required by section 51111 of Act 368 of the Public Acts of 1978 as amended, being 333.5111 of the Michigan Compiled Laws. A statement from a parent or licensed medical authority which indicates that immunizations are current or contraindicated is sufficient documentation of immunizations. If documentation of immunizations is unavailable, then immunization shall begin within 30 days of placement.
  - (e) The provision of any dental treatment necessary for a child who is less than 4 years of age.
  - (f) The provision of a dental examination and any treatment required for each child who is 4 years of age and older, including both of the following:
    - (iv) A dental examination within 12 months before placement or a new dental examination shall be completed not more than 90 calendar days after placement.
    - (v) A dental examination shall be obtained every 18 months, unless greater frequency is indicated.
- (2) An agency shall document all medical and dental care received by a foster child.

(1) An agency must have a policy to cover medical care needed. The fact that a Medicaid card has not been received is not a sufficient rea-

son for not insuring appropriate medical care.

- (1)(d) Information concerning the requirements of the public health code regarding the schedule for immunizations can be found on the web site for the Department of Community Health.
  - (f) A copy of an invoice indicating what services were provided is not sufficient to meet the intent of the rule. The statement from the dentist must also indicate whether or not additional treatment is needed.
- (2) Documentation of medical and dental care provided must come from the treating professional.

**R400.12414****Substitute care  
policy**

**An agency's substitute care policy shall, at a minimum, contain provisions for all of the following:**

- (a) Qualifications for a substitute caregiver.**
- (b) Conditions under which substitute care may be utilized.**
- (c) Notification of the agency, by the foster parent, before the beginning of any planned absence which requires substitute care for a period of 24 hours or more.**
- (d) Notification of the agency, by the foster parent, within 24 hours of any unplanned absence which requires substitute care for a period of 24 hours or more.**

There is no requirement that substitute care be provided by licensed providers or by adults, however, the needs of the child being cared for must be taken into account when determining what kind of substitute care may be provided and by whom.

There is no specific policy requirement related to the supervision of foster children. Agencies should consider including a statement in the substitute care policy regarding the expectation for levels of supervision of foster children. An agency is not prohibited from placing age specific requirements for substitute caregivers, if the requirements are in writing and the foster parents have notice of the requirements.

**R400.12415****Unusual incident policy**

- (1) An agency's unusual incident policy shall, at a minimum, include agency notification to the foster child's parents and the responsible agency of any of the following incidents within 24 hours of knowledge of the incident:
- (a) When a foster child is missing from a foster home.
  - (b) Any illness or injury that requires hospitalization of a child.
  - (c) A foster child's involvement with law enforcement authorities.
  - (d) Attempted removal or removal of a foster child from the foster home by any person who is not authorized by the agency.
- (2) The policy shall require that the agency immediately notifies all of the following entities of the death of a foster child:
- (a) The child's parents.
  - (b) The referring agency.
  - (c) The department licensing authority.

The responsible agency is the agency that has legal responsibility for the child.

Subpart (1)(b) requires notification for any hospital contacts, including the emergency room.

**R400.12416****Hazardous materials policy**

An agency's hazardous materials policy shall, at a minimum, contain both of the following provisions:

- (a) Dangerous and hazardous materials, objects, or equipment that may present a risk to children placed in a foster home shall be stored securely and out of the reach of children, as appropriate for the age and functioning level of the children.
- (b) Firearms shall be trigger-locked or fully inoperable and stored without ammunition in a locked area. Ammunition shall be stored in a separate locked location. A handgun shall be registered. Documentation of the registration of the handgun shall be available for review.

When a foster parent has a permit to carry a concealed weapon and is at home, the requirement that the weapon must be locked in a separate location from the ammunition still applies. In a home where one or more of the household members is in law enforcement and has a requirement to have a gun available, a variance must be requested. The request must detail how the person will ensure safety for children in the household.

**R400.12417****Foster parent  
information**

**(1) An agency shall provide a foster parent with all of the following information before the placement of a child:**

- (a) Child's name.**
- (b) Child's date of birth.**
- (c) Available known information about the child's health.**
- (d) Any known history of abuse or neglect of the child.**
- (e) All known emotional and psychological problems of the child.**
- (f) All known behavioral problems of the child.**
- (g) Circumstances necessitating placement of the child.**
- (h) Any other known information to enable the foster parent to provide a stable, safe, and healthy environment for the foster child and the foster family.**
- (i) Name of assigned social service worker.**
- (j) Authorization to provide routine and emergency medical care.**

**(2) For an emergency placement, if any of the information specified in subrule (1)(a) to (h) of this rule is not available at the time of placement, then the information shall be provided to the foster parent within 7 calendar days of the placement.**

All of the information identified in this rule is child specific, even when siblings are being placed into the same foster home.

**R400.12418****Service plans,  
initial and updated**

- (1) An agency shall complete written service plans for each child as follows:
  - (a) Within 30 calendar days after the initial placement by the agency.**
  - (b) Within 90 calendar days after the initial service plan and at least once every 90 calendar after the initial service plan.****
- (2) An agency shall place service plans in the case record and review the plans with foster parents. The agency shall inform the foster parent that the information in the plan and any other information about the child and the child's family is confidential.**
- (3) An agency shall develop service plans with the child, the child's parents or legal guardian, the referring agency, and other parties involved in providing needed services, unless the agency documents why any of the entities cannot be involved.**
- (4) An agency shall involve the foster parents in the development of service plans to enable the foster parents to understand the plan for the child and the foster parent's role in assisting the agency in carrying out the plan.**
- (5) The initial service plan shall include all of the following information:
  - (a) Dates, types, and places of agency contacts and persons contacted.**
  - (b) Circumstances necessitating placement.**
  - (c) Assessment of the placement selection criteria as required under R400.12404.**
  - (d) A social history pertinent to the circumstances necessitating placement that assesses the child and all persons constituting the child's significant family.**
  - (e) A plan that has as its goal reunification of the child with his family or another goal of permanent placement. The plan shall include all of the following information:
    - (i) The permanency goal for the child.**
    - (ii) The conditions necessary to achieve the permanency goal identified in paragraph (i) of this subdivision.**
    - (iii) Action steps and time frames to achieve the necessary conditions identified in paragraph (ii) of this subdivision.**
    - (iv) The persons responsible for implementing the action steps identified in paragraph (iii) of this subdivision.**
    - (v) Projected length of placement in foster care.******

- (f) **Plans for visits between the child, the child's family, and any other person.**
  - (g) **The child management plan to be used by the foster parent.**
- (6) An updated service plan shall include all of the following information:**
- (a) **Dates, types, and places of agency contacts and persons contacted.**
  - (b) **Confirmation that the child's current foster home continues to appropriately meet the placement needs of the child.**
  - (c) **A summary of information pertinent to the updated services plan received since the last service plan from the child, the child's parents or legal guardian, foster parents, referring agency, and others, unless the agency documents why any of these entities cannot be involved.**
  - (d) **Assessment of progress in achieving the permanency goal for the child.**
  - (e) **A plan which included any changes made since the previous plan and which has the content specified in subrule (5)(e)(I to v) of this rule.**
  - (f) **Plans for visits between the child, the child's family, and any other person.**
  - (g) **A child management plan which includes any changes made since the previous plan and which is to be used by the foster parents.**

For subpart (1), if the responsibility for the child's case moves from one agency to another, there must be some kind of new plan in the child's file within 30 calendar days after the change. It does not have to be a complete Initial Service Plan, but must address why the case was transferred, whether the new worker/agency agrees with the previous case plans, and any changes since the last plan was written. History from previous plans may be referenced in this plan.

If the initial service plan is not completed within the required 30 days, the due date for the first updated service plan will be based on the actual date the ISP was completed, not the date it was due. The intent of the rule is that there will not be more than 90 days between updated service plans. A USP may be completed in less than 90 days, but is not on time if it is completed more than 90 days from the previous plan. There must be evidence in the file that the agency has complied with subparts (2), (3), and (4).

The initial service plan must contain all of the elements identified in the subsections of the ISP rule. There must be evidence that the agency

has sought out information about the history for the specific child including the location of relatives and absent parents. The behavior management plan must be specific to the child and not just a generic restatement of the agency policy or that the foster parent will follow the agency policy.

Updated service plans are to reflect what has happened during the previous 90 days. If there have been no significant changes, the plan must specifically state that there have been no changes and that the goals are appropriate to continue. It is not acceptable to have multiple successive service plans that simply state that there has been no change. If the contact section indicates that parents have been visiting regularly, there should be information in the plan about the parent's progress and there should be a parent signature on the service plan. As with the initial service plan, the behavior management plan must be specific to the individual child.

**R400.12419****Visitation**

- (1) An agency shall develop a plan of visitation for each child in foster care consistent with the child's service plans, as required by R400.12418.**
- (2) An agency social service worker shall personally visit each foster child at least once each month.**
- (3) An agency social service worker shall visit the foster child and the foster parent in the foster parent's home at least once every other month.**
- (4) An agency may reduce visits to a child once every 90 days if there is documentation in the service plan that a child's placement in a foster home is a permanent placement. Visits shall occur in the foster home.**

If the agency policy requires visits in the foster home more frequently than every other month, the agency must comply with their policy. When a child comes to the agency or some other location for purposes of parent or sibling visitation, the worker must spend time specifically visiting with the child and talking with the child for that to count as a visit. When visiting with a child in a foster home, the worker should make a point of visiting with the child separately from the foster parent and in a place that assures privacy.

**R400.12420**

- Foster care record**
- (1) An agency shall maintain a record for each child in its foster care program.**
  - (2) An agency shall protect each record against destruction and damage shall store and maintain each child's record in a manner to assure confidentiality and to prevent unauthorized access.**
  - (3) The record shall contain all of the following information:**
    - (a) Initial service plan.**
    - (b) Any required updated service plans.**
    - (c) Medical and dental records.**
    - (d) Placement documentation as required by R400.12404.**
    - (e) Change of placement documentation as required by R400.12405.**
    - (f) Plan of visitation as required by R400.12419.**
  - (4) An agency shall maintain the record for not less than 7 years after the agency's termination of services to the child.**

The agency may maintain a family case record if there are multiple siblings in a family in care, however, there must be a specific section for each child and all information as required by rule for each specific child.

**PART 5.  
INDEPENDENT  
LIVING SERVICES****R400.12501****Department  
authorization**

**An agency shall be authorized by the department to supervise independent living placements.**

A child caring institution cannot avoid licensure as a child caring institution by making application to operate a child-placing agency with the use of an unlicensed building to house youth. Independent Living requires that a resident have control of life decision-making and finances. The agency can only provide limited supervision and control of the resident.

The following factors are some of the indicators a facility is a CCI:

- Residents, age 16 or 17, require 24-hour staff supervision.
- The agency has set up staffing similar to an institution.
- The facility offers components similar to an institution such as food services, social services and treatment services.
- The agency controls the youth's income.

**R400.12502**

- Program statement**
- (1) An agency shall have and follow a current written program statement that includes all of the following information:**
- (a) Types of living arrangements approved.**
  - (b) Eligibility requirements for a youth, including age and level of physical, emotional, and intellectual functioning.**
  - (c) Services provided.**
  - (d) Means of financial support for the youth.**
  - (e) Supervision.**
  - (f) Educational and vocational requirements.**
  - (g) Medical and dental care.**
  - (h) Basis for termination.**
- (2) An agency shall give a copy of the program statement to a youth before placement in independent living.**

An agency must have policies and procedures that comply, at a minimum, with the requirements in the rules that correspond to the subsections. If an agency's policies and procedures exceed the minimum requirements specified in the rule, the agency is required to follow the written policies and procedures. An agency that does not follow its own policies may be cited as being in violation of this rule.

**R400.12503****Policy and procedures**

- (1) An agency shall have and follow written policies and procedures for the independent living services provided.**
- (2) The policies and procedures shall cover at least all of the following:**
- (a) Placement.**
  - (b) Supervision.**
  - (c) Education.**
  - (d) Medical Care.**
  - (e) Termination.**
  - (f) Independent living record.**
- (3) An agency shall provide a youth in independent living with a copy of the agency's policies and procedures required by the rule.**

An agency must have a specific policy for each of the subsections identified in the rule. The minimum content of the policy is specified in the rules.

If a private agency is under contract to the Department of Human Services and agrees, as part of the contract, that DHS policies and procedures will be followed, the agency must follow those policies. An agency may also have policies that exceed the minimum standards set forth in the rules. If an agency's policies exceed the minimum standards, the agency is accountable for following their own policies.

**R400.12504****Placement**

**(1) An agency shall document the reason for selection of independent living as the most appropriate placement for the youth.**

**(2) All of the following shall be in the case record before a youth is placed in independent living:**

- (a) The basis for concluding that a youth exhibits self-care potential.**
- (b) That the youth's social service worker has personally observed and determined that the living situation is safe.**
- (c) The availability of specific and relevant resources that may provide for suitable social, physical, vocational, and emotional needs of a youth.**
- (d) An evaluation of a youth's need for supervision.**
- (e) Proof that financial support to meet the youth's housing, clothing, food, and miscellaneous expenses is available.**

A youth may live in a licensed foster home as an independent living placement. The youth does not count in the number of foster children in the home. All foster home rules must still be in compliance, i.e., amount of square footage required in a bedroom. The youth is to be assessed as a member of the household, including having a medical statement in the foster home file. If the youth is 16, the youth is included in the count of 8 for the number of children under the age of 17. If the foster home accepts the youth into the home and the agency was not involved in the placement, the foster home must notify the agency of the change in household composition.

**R400.12505****Supervision**

- (1) An agency shall provide supervision for a youth in independent living consistent with the youth's need for supervision, as required by R400.12504(2)(d).
- (2) An agency shall provide the following minimum supervision:
- (a) Face-to-face contact between the social service worker and the youth in independent living at least once each month at a youth's place of residence.
  - (b) At monthly intervals, ensure that the youth is complying with the terms of the contract required by R400.12509(2)(k).
  - (c) Provide the youth with a telephone number to contact the agency on a 24-hour, 7-days-a-week basis.

There are no interpretations known or needed.

**R400.12506**

**Education**

**An agency shall ensure that a youth in independent living is working full-time, actively involved in job training or continuing education, or a combination of work and education.**

There are no interpretations known or needed.

**R400.12507****Medical Care**

**An agency shall ensure that a youth in independent living receives any needed medical and dental care. Medical and dental care provided shall be documented in the youth's record.**

The medical and dental needs of a youth in independent living are difficult to determine if the youth does not obtain regular medical and dental care. It is recommended that a youth continue to get an annual medical and dental assessment. This could become a part of the contract between the youth and the agency.

**R400.12508****Termination**

**(1) When an agency terminates its independent living services for a youth, the agency shall document all of the following information in the case record within 30 days of termination of its services:**

- (a) The reason for the termination.**
- (b) The youth's new location.**
- (c) A summary of the services provided during care and the needs that remain to be met.**
- (d) Provision for any follow-up services.**

**(2) An agency shall ensure and document that each youth who ends independent living is provided with all of the following:**

- (a) Basic information about health, housing, counseling services, and emergency resources.**
- (b) A birth certificate.**
- (c) A social security card.**
- (d) The youth's funds and personal property.**

There are no interpretations known or needed.

**R400.12509****Independent living record**

- (1) An agency shall maintain a case record for each youth placed in independent living.**
- (2) The case record shall contain all of the following information and documentation, which shall be recorded within 30 calendar days after placement in independent living and updated at least once every 90 calendar days:**
  - (a) All of the following personal information pertaining to the youth:**
    - (i) Name**
    - (ii) Social security number**
    - (iii) Address and telephone number**
    - (iv) Date of birth.**
    - (v) Sex.**
    - (vi) Race.**
    - (vii) Height.**
    - (viii) Weight.**
    - (ix) Hair color.**
    - (x) Eye color.**
    - (xi) Identifying marks.**
    - (xii) A photograph updated on an annual basis.**
  - (b) Documentation of the agency's legal right to place a youth.**
  - (c) The names, addresses, dates of birth, and social security numbers of the youth's parents, if any.**
  - (d) The names, dates of birth, and addresses of the youth's siblings, if any.**
  - (e) The names and addresses of any offspring.**
  - (f) The names and addresses of any other significant persons.**
  - (g) Current documentation of financial support sufficient to meet the youth's housing, clothing, food, and miscellaneous expenses.**
  - (h) The date, location, documented purpose, and a summary of the findings of each contact between the youth and the social service worker.**
  - (i) Current adjustment.**
  - (j) The youth's relationship with family members and agency efforts to resolve family conflict.**
  - (k) A mutually agreed upon contract between the youth and the agency which specifies the responsibilities of the agency and the youth and which is signed and dated by the youth and the social service worker. The contract shall be reviewed and updated at least once every 90 days and a**

**copy provided to the youth.**

**(3) An agency shall maintain the record for not less than 3 years after the agency's termination of services to the youth.**

(2) While not all elements of this subrule will have changes, any area that contains a requirement for current information that could change must be specifically addressed indicating that there has or has not been a change and if there is a change in any element, the changes must be clearly specified.

- (xi). Any piercings, scars, or tattoos should be noted under the identifying marks.
- (xii) The photograph required in the file must be an original color photograph. It can be printed on a color copier from a digital camera.
- (d) The information on siblings should include information about siblings who have been adopted.

**PART 6. ADOPTION  
EVALUATION  
SERVICES**

**R400.12601**

**Department  
authorization**

**An agency shall be authorized by the department to evaluate applicants for adoption.**

There are no interpretations known or needed.

**R400.12602**

- Program statement**
- (1) An agency shall have and follow a current written program statement.**
  - (2) The statement shall include all of the following information:**
    - (a) Eligibility requirements for adoptive parents.**
    - (b) A clear delineation of fees, charges, or other consideration or thing of value for adoption services. The delineation shall include specific charges for expenses and services within and outside the agency and shall differentiate between the charges that are refundable and the charges that are not refundable.**
    - (c) Services and functions provided directly and indirectly.**
    - (d) Geographical area covered.**
  - (3) An agency shall provide the statement to all persons making inquiry about the agency's services.**
    - (a) When the agency's eligibility requirements are met, the agency may not refuse to give a family an application for adoption.
    - (b) Fees that are charged to families that are requesting adoption from a different country need to clearly state what charges are related to the specific country and what additional fees will be charged if the family switches from one country to another country. If the agency's home study will not be released until fees are paid, this is to be clearly stated in the program statement.

**R400.12603**

**Program statement** (1) An agency shall have and follow written policies and procedures for the adoption services provided.

(2) The policies and procedures shall cover at least all of the following areas:

- (a) Orientation
- (b) Adoptive evaluation
- (c) Agency recommendation
- (d) Intercountry services
- (e) Adoption evaluation record

An agency must have policies and procedures that comply, at a minimum, with the requirements in the rules that correspond to the subsections. If an agency's policies and procedures exceed the minimum requirements specified in the rule, the agency is required to follow the written policies and procedures. An agency that does not follow its own policies may be cited as being in violation of this rule.

**R400.12604****Orientation**

**A social service worker shall provide an orientation for prospective applicants before an adoptive evaluation is conducted. The orientation shall include a review of all of the following:**

- (1) Program statement, policies, and procedures**
- (2) Services and resources available**
- (3) Fees and charges for services**

The agency must cover all of the topics identified in the rule. The rule does not specify the level of detail of information that has to be provided in orientation. The purpose of orientation is to provide an overview. There is no requirement that the orientation be provided in a classroom setting. It may be appropriate to do the orientation in the prospective applicant's home.

There is no minimum number of hours of time required for orientation.

**R400.12605****Adoptive  
evaluation**

- (1) An agency shall complete a written report of an adoptive evaluation which shall be conducted by a social service worker.**
- (2) The report shall include the dates and places of contacts and persons interviewed or observed.**
- (3) The report shall be an assessment of all of the following:**
  - (a) Visits at the residence of the applicants for adoption to conduct observations of, and interviews with, each member of the household to determine all of the following:**
    - (i) Marital and family status and history, including current and past level of functioning and relationships and any incidents of domestic violence.**
    - (ii) Educational history and any special skills and interests.**
    - (iii) Employment history, current financial status, including property and income, money management skills and outstanding financial obligations.**
    - (iv) Physical, mental, and emotional health of each member of the household.**
    - (v) Any history of substance abuse of each member of the household.**
    - (vi) Parenting skills and attitudes toward children.**
    - (vii) Methods of discipline of children.**
    - (viii) Adjustment and special needs of the applicant's own children.**
    - (ix) Strengths and weaknesses of each member of the household.**
    - (x) Experiences with own parents and any history of out of home care.**
    - (xi) Reasons for adopting.**
    - (xii) Previous experience in providing child foster care, child day care, or adult foster care.**
    - (xiii) Attitude towards accepting an adoptive child.**
    - (xiv) Willingness to parent cross-racially or cross culturally and to create an atmosphere that fosters the racial identity and culture of an adopted child.**
    - (xv) Capacity and disposition to give an adopted child guidance, love, and affection.**
  - (b) Previous adoption evaluations or placements.**
  - (c) Previous licenses, criminal convictions, substantiated child abuse or neglect for any member of the household.**
  - (d) Three references from persons not related to the applicants.**

- (e) **A medical statement for each member of the household that indicates that the member has no known condition which would affect the care of an adoptive child. The statement shall be signed by a physician within the 12-month period before the adoptive evaluation.**
- (f) **Adequacy of the applicant's house, property, neighborhood, schools, and community for the purpose of adoption as determined by an on-site visit.**
- (g) **The age, number, sex, race, ethnic background, and special characteristics of children preferred by the applicants and the family's plan to discuss adoption with any child adopted.**

The intent of this rule is that there be a current study of a family (not just the prospective adoptive parents) to assure, as much as possible, that a child will be well cared for and safe in an adoptive family. A "current study" means one that has been completed within the 12 months prior to an adoptive placement. If studies have been completed in the past for purposes of foster home licensing, other adoptions, or by another agency, the recommendation by the agency to accept the information in those studies is an indication that the agency accepts the information in the study as accurate and factual. If previous studies are referenced, the study referenced must be available in the file for review. The current study must specifically state what circumstances have not changed and must cover any gaps in time between the referenced study and the current study.

- (1) The initial written evaluation of the adoptive family must be completed prior to making a recommendation to approve the family for adoption.
- (2) The list of contacts may include the information regarding orientation sessions the applicants have attended, but this is not required.
- (3) The initial evaluation must contain information regarding each of the sub parts of this section of the rule regardless of the type of adoption being contemplated, i.e., foster child, newborn infant, step-parent, relative, international, etc. There is no required format for the study. Each of the identified topics is to be **assessed**. There must be more than restatements of what the applicant(s) said to be in compliance. If a sub-part is not applicable to an applicant, the study must specifically state that.
  - (a) The language of the rule suggests that more than one visit should be made to complete an initial assessment of the family. No specific number of visits is required, however, at least one visit must take place in the home. Each member of the

---

household must be interviewed and assessed, including minor children. There is no specific age at which interviews of children are appropriate. If children are determined to be too young to interview, the rule still requires that there be information regarding the observation of the relationships of the various family members. The family may not tell an adoption worker that children cannot be interviewed. The interviews of the individual household members must cover all of the items identified in this sub rule. If there is an area where the family has not had experience, that must be stated.

- (i) Marital and family status and history is to include information about the current marital/partner relationship as well as previous marriages/relationships for both partners. If the applicant has children and the other parent of the child(ren) is not the current spouse or partner, there must be information regarding the relationships that produced the child(ren). Does the parent have ongoing contact with the child(ren)? Does the person pay child support? (etc.)
- (ii) When the family indicates they are home schooling, the information regarding education must identify what system the parent follows and how the child's progress is evaluated and assessed. Information regarding special skills and interests does not have to be tied to skills and interests that are related to adopting, but if there are skills that would relate to adopting the information should be included. For example, someone who is a nurse might be an appropriate parent for a medically fragile child.
- (iii) An individual does not have to be employed to become an adoptive parent. There must be a legal source of income, but it does not have to be earned income. There is no requirement to verify income. When there are questions however, the agency should document income. Even if the agency does not choose to verify the income, the income must be verifiable if necessary. No minimum level of income is required, but the family should be able to support themselves without the use of adoption subsidy. When an applicant states that the source of income is money given from a family member or another individual, the person who gives the money on a regular basis must provide a written statement confirming the amount of the ongoing gifts and that there is an expectation that the gifts will continue for the foresee-

able future. The agency must evaluate the family's expenses in relationship to income. Again, if there are questions, the agency may ask the family to document expenses. When evaluating expenses, the agency should ask about all expenses, including food, clothing, entertainment, car insurance, home owner's expenses, etc.

- (iv) The assessment of physical, mental, and emotional health must be done in relationship to the individual's ability to provide care as well as the individual's care needs. For example, if there is a physically challenged or emotionally impaired child or a senior citizen living in the home, how much energy is devoted to meeting that person's physical or emotional needs? What impact will the needs or behaviors of the person have on children who might be placed in the home? If someone in the family has had counseling or the couple has had couple's counseling, this must be evaluated. The person who has had counseling must sign a release to obtain information from the treating therapist. If the therapist is no longer available or the information cannot be obtained, it is up to the agency to determine that the person/couple has adequate mental and emotional health. A new evaluation may be requested when that is appropriate.

If a family member has been hospitalized due to mental health or emotional problems, this also requires careful evaluation. Again, the person who was hospitalized (or the parent of the minor who was hospitalized) must sign a release to obtain information from the treating hospital. If the information cannot be obtained, it is up to the agency to determine that the person/couple has adequate mental and emotional health. A new evaluation may be requested when that is appropriate.

If a family member has been hospitalized due to mental health or emotional problems, this also requires careful evaluation. Again, the person who was hospitalized (or the parent of the minor who was hospitalized) must sign a release to obtain information from the treating hospital. If the information cannot be obtained, it is up to the agency to determine that the person/couple has adequate mental and emotional health. A new evaluation may be requested when that is appropriate

---

Assessment of an applicant's mental health condition can be particularly difficult. Both state and federal legislation exist to protect against discrimination based on a person's mental disability. The certifying agency's assessment may not be based on generalizations or stereotypes about the effects of a particular disability. Rather, an agency must conduct an "individualized assessment" based on reasonable judgment and relying upon current medical evidence or the best available objective evidence to determine the nature, duration and severity of the person's psychiatric impairment as it relates to parenting foster or adoptive children. See CPA Letter 2008-02 for further information and required documents.

- (v) Any evaluation of an individual's substance abuse history must be based on that specific person. An agency may not have an arbitrary policy that requires a set period of time after the person has stopped using substances before a license can be recommended or a placement made.
- (vi) When the applicant(s) has children, general beliefs about child raising are to be explored. When the agency is evaluating a two parent family, the agency is to address the attitudes and beliefs of both individuals and ask how differences of opinion are worked out. The place of children in the family and the status of children in the family are to be explored. When the applicant(s) does not have children, the agency is to ask about relevant experiences with children.
- (vii) The discussion of discipline techniques is to cover the attitudes and beliefs of the applicant(s) regarding how both positive and negative behaviors of children are handled.
- (viii) If the applicant(s) has children, whether minor or adult, the adjustment and special needs of those children must be addressed. Adult children must be contacted either in writing or by telephone. All children are to be asked about their perspective on their parents parenting skills and methods of behavior management. When adult children have had, or currently have, adjustment issues relating to employment, substance abuse, imprisonment, or other issues, the assessment of the parent's role and responsibility for the adult child's problems

- must be individually assessed.
- (ix) The agency may report what the applicant(s) says about strengths and weakness of individuals or their partner, but the agency must evaluate the statements of the person. The agency is also to evaluate the strengths and weaknesses of each individual in the home.
  - (x) This section should be a brief overview of the applicants' childhood and growing up experiences. If either or both applicants was ever placed out of the parental home, either with relatives, others, or in foster care, the circumstances that necessitated the placements should be identified as well as the person's feelings about those experiences. If there was no history of out of home care, that must be stated.
  - (xi) There must be a statement of why the person has made the decision to apply for adoption. If the initial response is broad, such as, "I love children" or "I want to help children", there should be some exploration of what those statements mean. If the reason given indicates a lack of understanding of the system, there should be evidence that the worker has provided enough information to assist the person in understanding the issues of adopted children.
  - (xii) The applicant is to be asked specifically if they have been licensed for foster care, day care, or adult foster care in the past. If the person has been licensed in the past, the applicant's experiences as a licensee are to be discussed. If they have not been licensed, that is to be noted
  - (xiii) Examples of issues that should be explored are: What will the family do to insure that an adopted child will be included as a member of the household? How will the family treat adopted children in the areas of contact with extended family? Do all family members have similar meals? Are all children in the family disciplined in the same manner? Etc.
  - (xiv) An agency may ask if an applicant is interested in parenting a child of a different race or culture. Federal law prohibits the agency from assessing the capability or appropriateness of the person to parent cross racially or cross culturally. If an applicant expresses a desire to parent children of a different race or culture, the agency may ask how the individual will create an atmosphere

that is comfortable for the child and affirms the child's race or culture. This is the one area where the agency is to simply restate what the applicant has stated and not assess the information.

- (b) If there have been previous evaluations for adoption or adoptive placements, the differences, if any, between those evaluations and the current evaluation are to be identified. If there have been no previous evaluations, this is to be stated. If children were placed for adoption, there is to be an assessment of the adoptive placement, if that is not identified earlier in the study. If previous adoptive placements have failed, the reasons for the placement failing must be discussed and assessed.
- (c) There is to be an assessment of the information that is reported back on the OCAL 1326 related to previous licenses, criminal convictions and substantiated child abuse or neglect for all adult members of the household. If a household member reports one of these things and the information is not noted on the OCAL 1326, the agency may need to secure local police record checks or information from the county DHS office.
- (d) References must be completed within the 12 months prior to the placement of a child for adoption. No specific format is required for references. If the reference is obtained verbally, either face to face or by telephone, there must be written documentation of the date the reference was obtained, the content of the conversation, the name and relationship of the person providing the reference as well as the name of the person taking the verbal information. The person taking a verbal reference must be qualified as a social service worker.
- (e) The OCAL medical form is not required for medical information. The medical statement must have been signed within the 12 months prior to the effective date of the placement of a child for adoption. The ability to provide care as well as the care needs of all household members (not including foster children) must be assessed and the statement signed by a physician, either an MD or a DO, or by a nurse practitioner or physician's assistant.
- (f) An onsite visit to the home is required to address this element of the study.
- (g) The agency is to identify the specific types and numbers of children that the applicant is qualified to care for and the types of children that are not appropriate for the family. The recommendation must take into account all of the information in the study,

not just the wishes of the applicant. The applicant must identify what plans they have to discuss adoption with any adopted child.

**R400.12606****Agency  
recommendation**

**(1) An agency shall make a written recommendation based on the findings of the adoptive evaluation with respect to both of the following:**

- (a) Approval or denial of the applicants for adoption by a social service worker.**
- (b) If approved, the number, sex, age, race, ethnic background, and special characteristics of adoptive children who may be placed in the adoptive home. A child's racial, ethnic, and cultural identity, heritage, and background may only be considered if an assessment of the individual child indicates that such consideration is in the best interest of the child.**

**(2) If an agency concludes that an individual is not suitable to be approved, then the basis for the decision shall be specified in the recommendation.**

**(3) An agency shall provide the applicants for adoption with a signed and dated copy of the evaluation and recommendation upon its completion.**

(2) All elements of a study do not have to be completed to determine that a family is not suitable for adoption, however, enough of a study must have been completed to establish facts to support that conclusion.

(3) An agency may have a policy that the study will not be released to a family until agreed upon fees have been paid. When this is the agency policy, the agency should not complete the signature and date on the study until the fees have been paid. Applicant's must be notified of this in writing in advance.

**R400.12607****Intercountry services**

If an agency assists a Michigan family with an evaluation prepared specifically for the adoption of a child born outside the United States, then the agency shall comply with all of the following provisions:

- (a) The agency shall include in its program statement, under R400.12602, a description of intercountry adoptive evaluation.
- (b) The regulations issued by the United States federal government regarding the procedures for United States citizens adopting from a particular country and the regulations issued by that country for adoptions by foreigners shall be kept on file at the agency and shall be made available for review by persons considering adopting from the country.
- (c) If an agreement exists between a foreign government and an agency, an English language translation of verified written agreements with the foreign government shall be on file at the agency and available for review. The agreement shall conform to the laws and regulations of the United States, the State of Michigan, and the foreign country.
- (d) If the agency has persons working in the foreign country for purposes of assisting prospective adoptive families, then the persons are considered staff of the agency.

Intercountry assessments done on families that do not live in Michigan may not be evaluated under this rule. Other rules in part 6 do apply to non-Michigan families, regardless of whether the adoption is for a child born outside of the United States or not.

To determine whether the agency has persons working in the foreign country, there are two issues to review:

- Does the family have a choice of individuals to work with in the foreign country? If the family is only given one name and cannot choose whom to use, the person is an employee of the agency.
- To whom does the family pay fees for the services of the person in the foreign country? If the fees are paid to the agency, the person in the foreign country is an employee of the agency.

When the agency has staff in other countries, all relevant personnel rules apply.

**R400.12608****Adoption  
evaluation record**

- (1) An agency shall retain a case record for each applicant for adoption.**
  - (2) The record shall contain all of the following:**
    - (a) Orientation documentation as required by R400.12604.**
    - (b) Adoptive evaluation as required by R400.12605.**
    - (c) Agency recommendation as required by R400.12606.**
  - (3) An agency shall retain each record for not less than 3 years after the agency's termination of services to the applicant.**
  - (4) If a branch or associate office of a child placing agency ceases to operate, then the branch's or office's adoption records shall be forwarded to the central office of the branch or associate office.**
- Agencies are expected to retain files for completed adoptions onsite for a minimum of one year to ensure that the files are available for review by the consultant during the annual onsite evaluation. After one year the completed adoption file may be sent to the DHS Adoption Program Office. Other adoption files are to be retained for at least three years. When an adoption agency closes, whether voluntarily or through disciplinary licensing action, the agency is to turn all files over to the consultant. The files are to be forwarded to the DHS Adoption Program Office.

**PART 7. ADOPTION  
PLACEMENT  
SERVICES**

**R400 12701**

**Department  
authorization**

**An agency shall be authorized by the department to receive children for placement with adoptive parents.**

There are no interpretations known or needed.

**R400.12702**

- Program statement**
- (1) An agency shall have and follow a current written program statement.**
  - (2) The statement shall include all of the following information:**
    - (a) Types of adoptions provided by the agency.**
    - (b) Procedures for selecting adoptive parents for a child, including the role of the child's parent or guardian in the selection process.**
    - (c) The extent to which the agency permits or encourages exchange of identifying information or contact between biological and adoptive parents.**
    - (d) A clear delineation of fees, charges, or other consideration or thing of value for adoption services. The delineation shall include specific charges for expenses and services within and outside the agency and shall differentiate between the charges that are refundable and the charges that are not refundable.**
    - (e) Services and functions provided directly or indirectly, including both of the following:**
      - (i) Counseling services and any other available services to a person who is releasing a child for adoption.**
      - (ii) Post-finalization services or counseling services provided to adoptive parents or to the adoptee.**
    - (f) Geographical area covered.**
  - (3) An agency shall provide the statement to all persons making inquiry to release a child for adoption and to prospective adoptive parents.**

There are no interpretations known or needed.

**R400.12703****Policy and procedures**

(1) An agency shall have and follow written policies and procedures for the adoption services provided.

(2) The policies and procedures shall cover all of the following:

- (a) **Safeguarding rights**
- (b) **Release**
- (c) **Recruitment**
- (d) **Orientation**
- (e) **Evaluation**
- (f) **Placement**
- (g) **Adoptive parent information**
- (h) **Supervision**
- (i) **Intercountry services**
- (j) **Adoption placement record**

An agency must have policies and procedures that comply, at a minimum, with the requirements in the rules that correspond to the subsections. If an agency's policies and procedures exceed the minimum requirements specified in the rule, the agency is required to follow the written policies and procedures. An agency that does not follow its own policies may be cited as being in violation of this rule.

**R400.12704****Safeguarding  
rights**

**An agency shall prescribe safeguards relating to the needs and rights of all of the following entities:**

- (a) Birth parents who are considering release of a child for adoption.**
- (b) The child who becomes available for adoption.**
- (c) The adoptive parents who apply to adopt or adopt a child.**

The intent of this rule is to ensure that all parties involved in the adoption process have needs and rights considered and safeguarded. Agencies need to be cautious to not give preference to the rights of one party over the other parties.

**R 400.12705****Release**

**(1) An agency social service worker shall provide an orientation for birth parents before the birth parents release their rights to a child.**

**(2) The orientation shall include a review of all of the following:**

- (a) Program statement, policies, and procedures.**
- (b) Legal process for adoption.**
- (c) Services and resources available.**
- (d) Meaning and consequences of a release.**

The requirement for orientation for birth parents prior to the release of parental rights applies to any release of rights, including neglect/abuse cases. When a birth parent releases rights during a court hearing and it was not expected, it is not required to discuss the identified topics, but it is good practice to cover the information with the birth parent after the release.

**R400.12706**

**Recruitment**

**(1) An agency shall have an ongoing recruitment program to ensure an adequate number of suitable adoptive parents for the timely placement of all children available for adoption.**

**(2) An agency shall base recruitment on all of the following criteria:**

- (a) Ages and developmental needs of children**
- (b) Racial identity of children**
- (c) Sibling relationships of children**
- (d) Special needs of children**

There are no interpretations known or needed.

**R400.12707****Orientation**

**An agency social service worker shall provide and document an orientation for the adoptive parents before they are determined to be suitable to parent an adopted child. The orientation shall include a review of all of the following areas:**

- (a) Program statement, policies, and procedures**
- (b) Needs and characteristics of children available for adoption**
- (c) Legal process for adoption**
- (d) Services and resources available**
- (e) Fees and charges for services**

The agency must cover all of the topics identified in the rule. The rule does not specify the level of detail of information that has to be provided in orientation. The purpose of orientation is to provide an overview. There is no requirement that the orientation be provided in a classroom setting. It may be appropriate to do the orientation in the prospective applicant's home.

There is no minimum number of hours of time required for orientation.

**R400.12708****Evaluation**

**An agency shall have on file a written adoption evaluation and agency recommendation as required under R400.12605 and R400.12606 before approving the adoptive parents for each adoptive placement and before referring a child to, or placing a child in, the home for purposes of adoption.**

The intent of this rule is that there be a current study of a family (not just the prospective adoptive parents) to assure, as much as possible, that a child will be well cared for and safe in an adoptive family. A current study means one that has been completed within the 12 months prior to an adoptive placement. If studies have been completed in the past for purposes of foster home licensing, other adoptions, or by another agency, the recommendation by the agency to accept the information in those studies is an indication that the agency accepts the information in the study as accurate and factual. Any items that have changed from previous studies, even if the study was completed within the previous 12 months, such as the adoption of other children, changes in employment or living situations, etc., must be addressed prior to making a recommendation for new adoptive placements.

**R400.12709****Placement**

- (1) An agency shall consider all of the following factors in selecting appropriate adoptive parents for a child:
- (a) The physical, emotional, medical, and educational needs of the child.
  - (b) The child's needs for continued contact with the birth parent, siblings, relatives, foster parents, and other persons significant to the child.
  - (c) The racial, ethnic, and cultural identity, heritage, and background. The child's racial, ethnic, and cultural identity, heritage, and background may only be considered if an assessment of the individual child indicates that such consideration is in the best interests of the child.
- (2) An agency shall place a child with agency-approved adoptive parents consistent with the needs of the child identified in subrule (1) of this rule and the agency's adoptive parent recommendation as required by R 400.12708.
- (3) An agency shall require a social service supervisor, or chief administrator if the placement is recommended by a social service supervisor, to approve or deny the recommendation for placement by the social service worker. The approval shall be documented in the record.
- (4) A public or private agency may place a child in an unlicensed home for the purposes of adoption if all of the following conditions have been met:
- (a) The adoptive parents have received orientation in accordance with the requirements of R400.12707.
  - (b) The evaluation of the prospective parents has been completed in accordance with the requirements of R400.12605.
  - (c) Supervisory approval of the placement has been documented in accordance with the requirements of subrule (3) of this rule.
  - (d) The adoptive petition has been filed with the court.
- (5) The provisions of this rule do not prohibit a temporary placement made under section 23d of chapter X of Act. No. 288 of the Public Acts of 1939, as amended, being 710.23d of the Michigan Compiled Laws.

Subsection (5) refers to a direct consent adoption as allowed by the probate code.

**R400.12710****Adoptive parent information**

**(1) An agency shall provide adoptive parents with all of the following information before the placement of a child:**

- (a) Child's name.**
- (b) Date, time, and place of birth including hospital, city, state, and country.**
- (c) Medical, social, and educational history of the child.**
- (d) Child's racial, ethnic, and religious background.**
- (e) Description of the child's family or origin, including age and sex of family members, relationship to the child, and medical, social, and educational history of each member of the family.**
- (f) Circumstances necessitating placement of the child.**
- (g) Child's preparation for placement and attitude toward the adoption.**
- (h) Any other known information to enable the adoptive parent to provide a stable, safe, and healthy environment for the child.**

**(2) An agency shall provide adoptive parents with any additional information that becomes available to the agency after the placement of the adoptive child.**

There is no mandatory format for sharing the information with adoptive parents, however, the agency must be able to document that the information identified in subpart (1) was provided before the child was placed.

**R400.12711****Supervision**

**(1) An agency shall provide post-placement supervision for the adoptive family at the adoptive parent's home as needed, but not less than once every 3 months, after the placement of a child and until the final order of adoption.**

**(2) An agency shall assess and record the child's and adoptive family's adjustment and, when needed, shall include plans to assist the child or adoptive family.**

**(3) An agency shall keep the adoptive parents informed of the results of the agency's continuing assessment of the placement at the conclusion of each visit.**

(1) The dates of the required supervisory visits are based on the date the of child's placement into the home. If the child is in the home as a foster child, the dates of required visits are based on when the child's status changes to adoption.

(3) There is no requirement that the information provided to adoptive parents at the end of visits be provided in writing. The intent of this subsection is that adoptive parents be informed of the agency's evaluation of the adoptive placement on an ongoing basis.

**R400.12712****Intercountry services**

**Rule 712. An agency that assists with the adoption of a child born outside the United States shall comply with all of the following provisions:**

- (a) The agency shall include in its program statement, under R400.12702, a description of intercountry adoptive placements provided.**
- (b) The regulations issued by the United States federal government regarding the procedures for United States citizens adopting from a particular country and the regulations issued by that country for adoptions by foreigners shall be kept on file at the agency and shall be made available for review by persons considering adopting from the country.**
- (c) If an agreement exists between a foreign government and an agency, an English translation of verified written agreements with the foreign government shall be on file at the agency and available for review. The agreement shall conform to the laws and regulations of the United States, the state of Michigan, and the foreign country.**
- (d) If the agency has persons working in the foreign country for purposes of facilitating adoptive placements, then the persons are considered staff of the agency.**

To determine whether the agency has persons working in the foreign country, there are two issues to review:

- Does the family have a choice of individuals to work with in the foreign country? If the family is only given one name and cannot choose whom to use, the person is an employee of the agency.
- To whom does the family pay fees for the services of the person in the foreign country? If the fees are paid to the agency, the person in the foreign country is an employee of the agency.

When the agency has staff in other countries, all relevant personnel rules apply.

**R400.12713****Adoption  
placement record**

- (1) An agency shall permanently retain a case record for each adoptive child after adoptive placement.**
- (2) The record shall contain all of the following:**
  - (a) Orientation documentation as required by R400.12707.**
  - (b) Evaluation documentation as required by R400.12708.**
  - (c) Placement documentation as required by R400.12709.**
  - (d) Supervision documentation as required by R400.12711.**
- (3) If a branch or associate office of a child-placing agency ceases to operate, then the agency shall forward the branch's or office's adoption records to the central office of the branch or associate office.**
- (4) If a child-placing agency ceases to operate, then the agency shall forward its records to the Michigan Family Independence Agency.**

When an adoption agency closes, whether voluntarily or through disciplinary licensing action, the agency is to turn all files over to the consultant. The files are to be forwarded to the DHS Adoption Program Office.