

Dear Senators LODGE, Broadsword & Werk, and
Representatives BLOCK, Nielsen & Henbest:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Dept. Of Health & Welfare: IDAPA 16.06.01 - Family & Children's Services (Docket #16-0601-0801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 11-17-08. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 12-16-08.

_____The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Research & Legislation Staff - Paige Alan Parker

DATE: October 27, 2008

SUBJECT: Department of Health and Welfare - IDAPA 16.06.01 - Family and Children's Services (Docket No. 16-0601-0801 (Proposed))

By this Proposed Rule docket, the Department of Health and Welfare amends chapter 06.01 of title 16, Idaho Administrative Code (Docket No. 16-0601-0801), dealing with the rules governing family and children's services (hereinafter, "proposed rule").

The present IDAPA chapter 16.06.01 was considered by the 2008 Legislature as a temporary and proposed rule in Docket No. 16-0601-0701, which revamped the Child Protection Central Registry. According to the Department, the Legislature expressed some concerns in approving that Docket, including clarification of due process language and replacing the term, "a reasonable person would conclude," with the more objective "evidence-based." The Department seeks to address those issues in this proposed rule. In addition, the proposed rule: reflects the transfer rules regarding children's mental health services to new IDAPA chapter 16.07.37, which is reflected in Docket No. 16-0737-0801; updates the rules regarding federally-funded adoption and foster care assistance (title IV-E) to align with recent [unidentified] changes to federal statutes; updates the adoption rules to reflect recent streamlining and decentralization of the Department's adoption process; changes the chapter title to "Child and Family Services;" and makes technical language changes.

According to the Department, the proposed rule is authorized pursuant to sections 16-1629, 16-2102, 39-1209 through 39-1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004 and 56-1004A, Idaho Code, as well as title IV-E, section 471(a)(14) and 473(c)(3)(B) of the Social Security Act.

Section 16-1629, Idaho Code, is part of the Child Protective Act, and provides the powers and the duties of the Department thereunder, including maintaining a central registry for

reporting child neglect, abuse and abandonment information and establishing appropriate administrative procedures for processing complaints of child neglect, abuse and abandonment. Section 16-2102, Idaho Code, is part of the Interstate Compact on the Placement of Children, and provides authority for the Governor to execute a child placement compact with other states.

Chapter 12, title 39, Idaho Code, is the Child Care Licensing Reform Act. Sections 39-1209 through 39-1211, Idaho Code, grant the Idaho board of health and welfare the power to promulgate appropriate rules to implement and enforce listed standards with regard to the licensing of children's agencies, children's residential care facilities, and private foster homes. With regard to private foster homes, section 39-1211, Idaho Code, grants the Department the power to promulgate and enforce rules to assure the safety and adequate physical care of children and to require that foster parents be physically and emotionally suited to care for children and to deal with problems presented by these children.

Section 39-5603, Idaho Code, grants the Department's director the authority to promulgate and adopt appropriate rules necessary to implement and enforce standards for the provision of personal assistance services (i.e., services ordered by a physician or authorized provider that involve personal and medically oriented tasks dealing with the functional needs of the participant and accommodating the participant's needs for long-term maintenance, supportive care or instrumental activities of daily living). Section 39-7501, Idaho Code, enacts into law the interstate compact on adoption and medical assistance. Article IV of that compact addresses adoption assistance; article V addresses medical assistance.

Section 56-202(b), Idaho Code, requires the Department's director to promulgate, adopt and enforce such rules and such methods of administration as may be necessary or proper to carry out the provisions of title 56, Idaho Code, which deals with public assistance and welfare. Section 56-203B, Idaho Code, provides that payment of public assistance for the benefit of any dependent child creates a debt due or owing to the Department by the parent or responsible party and creates a subrogation interest in the Department. Section 56-204A, Idaho Code, requires the Department to adopt appropriate rules related to children's services.

Section 56-1003, Idaho Code, provides powers and duties to the Department's director in the area of public health; section 56-1004, Idaho Code, provides administrative powers and duties to the Department's director. Section 56-1004A, Idaho Code, adopted in 2005 and amended in 2006, deals specifically with criminal history and background checks. Subsection (1) authorizes the Department to conduct such checks of individuals who provide care or services to vulnerable adults or children and who are identified in rule as being required to have such a check. Subsection (2) describes the information that must or may be contained in such a check. Subsection (3) requires the Department to promulgate rules to further define those individuals who are required to have a background check.

The Social Security Act was enacted in 1935 and has been amended at least 22 times since then. The Social Security Act is not compiled as such, at least in any readily available

online reference, but, instead, is codified in the United States Code (USC). The Department has chosen to cite to title IV-E, sections 471(a)(14) and 473(c)(3)(B) of the Act which provides no guidance as to the content of those sections. Far better practice would be to cite to the USC.

According to the Department, no fee or charge is imposed, decreased or increased by the proposed rule. The Department estimates that there will be an estimated annual cost for sending substantiated letters by certified mail, return receipt requested of \$5,900 and a one-time cost of \$2,000 for changes related to the Central Registry portions of the Department's child welfare information system (FOCUS), for an estimated total cost of \$7,900 for implementation of changes to the Child Protection Central Registry

According to the Department, negotiated rulemaking was not conducted because the amendments to the Child Protection Central Registry contain changes agreed upon by the Department and the 2008 Legislature. The Department states that public hearings will be scheduled if requested in writing by 25 persons, a political subdivision or an agency not later than October 15, 2008. The Department will accept written comments through October 22, 2008.

ANALYSIS

As the Department has noted, some provisions of IDAPA chapter 16.06.01, Child and Family Services (the new title pursuant to the proposed rule), have been carried over to new IDAPA chapter 16.07.37, Children's Mental Health Services (hereafter "new chapter"). This has been done either through deleting and transferring or copying existing rule sections, sometimes as amended by the proposed rule, to the new chapter.

The multiple specific rule changes or deletions that reflect the changed chapter title or scope of the chapter, including the deleted references to seriously emotionally disturbed children or children in care due to an emotional or behavioral disturbance or like reference, will not be called out in this memorandum. This memorandum will also not dwell on the purely technical and housekeeping changes, including changes that reflect the chapter's new title.

A. Standard Rule Sections.

The proposed rule deletes several Idaho Code citations as legal authority, reflecting the refocusing of IDAPA chapter 16.06.01, due the transfer of children's mental health services to the new chapter. Section 000. The scope of IDAPA chapter 16.06.01 has been reduced as a result of the new chapter. Sections 001.02.a and b. However, the deletion of the chapter's scope with regard to "family services to support the education, training and employment programs being provided for public assistance and Food Stamp recipients," is unrelated to the new chapter. Existing section 001.02.c. The proposed rule provides a new chapter goal: "the safety, permanency, and well-being of children, as well as promoting the stability and security of Indian tribes and families." Section 001.03.

B. Definitions.

A number of definitions have been deleted by the proposed rule: “child mental health,” “child mental health services,” “day treatment services,” “FOCUS (Family Oriented Community User System),” “purchase of services,” “serious emotional disturbance (SED),” “social service block grant” and “target population.” Of these, “child mental health services” and “serious emotional disturbance (SED)” have been moved to the new chapter.

One definition, “IV-E foster care,” existing section 010.01, has been moved and renamed “title IV-E foster care” section 013.05. The definition “voluntary service agreement” has been modified to reflect the transfer of children’s mental health services to the new chapter. Section 013.10.

The definition of “case management” includes planning for permanency under the proposed rule. Section 010.08. Under the proposed rule, the “compact administrator” no longer coordinates the interstate transfers of persons requiring special services or the out-of-state placement of a child according to the Interstate Compact on Mental Health, sections 66-1201 et seq., Idaho Code. Sections 010.12 and 030.08.

Psychologists, counselors and family therapists as direct service personnel working in regional Child and Family Services Programs have been removed from the definition of “family service worker”. Section 011.06. The definition of “respite care” has been modified by the proposed rule to remove language requiring the care be provided outside the home of the usual care provider and has been clarified to provide that an episode of the respite care ranges from a partial day up to 14 consecutive days. Section 012.15. The definition of “unmarried parents’ services” has been modified to indicate that such services are provided in accordance with section 56-204A, Idaho Code. Section 013.09. Section 56-204A(b), Idaho Code, gives the Department rulemaking authority for services to unmarried parents, which may be necessary to assure or provide adequate care, and to safeguard the rights and promote the well-being of such parents and their infants.

One new definition is included in the proposed rule, “responsible party,” which means “an individual such as a Department social worker, clinician, or contracted service provider who maintains responsibility and authority for case planning and case management.” Section 012.16.

C. General Requirements and Services.

The proposed rule modifies a number of rule provisions to reflect that a legal guardian is not financially responsible for the child in care. Sections 020.05.b, 436.01, 436.02, 438, 439 and 440. The proposed rule has also clarified a number of existing rules to include “abandonment” as one of the child “at risk” categories. Sections 030.04, 030.05, 030.06, 405.05.b and 554.

Under the proposed rule, community support services do not include psychosocial

rehabilitative services, companion services and day treatment. Section 030.07.

Eligibility requirements for independent living under the proposed rule distinguish between current and former foster youth. Current foster youth must be between 15 to 19 years of age, be currently under Department or tribal care and authority pursuant to court order or voluntary agreement, and been in foster care or similar eligible setting for a minimum of 90 days. Section 030.09.a. Former foster youth must be between 15 to 21 years of age, and be currently under Department or tribal care pursuant to court order or voluntary agreement, been in foster care or similar eligible setting for a minimum of 90 days after reaching 15 years of age or between 18 to 21 years of age, provide verification of meeting the independent living eligibility criteria of another state and be an Idaho resident. Section 030.09.b.

The proposed rule deletes “pre-authorization of care” from the list of regulatory activities and services which assist the Department in meeting the goals of safety, permanency, health and well-being for children and families. Section 030.11. The goals of family services practice have been deleted by the proposed rule. Existing section 040.

The proposed order prioritizes the placement preferences when recommending and making permanency decisions: (1) return home if safe to do so; (2) adoption or legal guardianship by a relative or kin; (3) adoption or legal guardianship by a non-relative; and (4) another planned permanent living arrangement such as long-term foster care. Section 050.14.

The proposed rule no longer subjects the confidentiality of family case records or the overall protection and disclosure of Department records to IDAPA 16.05.01, Use and Disclosure of Department Records. Section 060.02 and existing section 070.

D. Reviews and Hearings.

Under the proposed rule, the Department will conduct a “case review” [an “individual family case review” under the existing rule] when a judicial review does not occur at the end of six months for any child in alternate care placement. Section 240. The proposed rule requires that an Indian child’s tribe and Indian custodian be provided with notice of the six-month review. Section 240.01. Parties receiving notice will be given the opportunity to “participate,” rather than the opportunity “for face-to-face discussion including attending, asking questions and making statement” under the existing rule. Section 204.02. The six-month review panel is to be chosen by the Department’s Child and Family Services program manager (or designee), rather than by the regional director, as specified in the existing rule. Section 240.03.

The proposed rule clarifies that the permanency hearing must be held twelve months after the child is placed in alternative care and no later than twelve months thereafter as long as the child remains in alternative care. Section 250. The proposed rule requires that an Indian child’s tribe and Indian custodian be included in the permanency hearing. Section 250.01. The proposed rule no longer requires the court to review the Department’s reasons for placing the

child in long-term alternate care when the Department has documented compelling reasons for not terminating the parent and child relationship in the alternate care plan. Section 250.02.b.

The proposed rule also clarifies that one of the purposes of the federally mandated Citizen Review Panels is to make recommendations for improving the child welfare system. Section 251.

E. Alternate (Out-of-Home) Care.

An annually monitored Department goal under the proposed rule is not more than 25% of the foster youth will be in foster care longer than 24 months. Section 404.

The proposed rule deletes the requirement that a child of appropriate developmental age participate in establishing a schedule for frequent and regular visits by the family and the family services worker. Section 405.05. Face-to-face contact with a child by the responsible party (Department social worker, clinician or contracted service provider) must occur at least monthly and may occur in settings other than where the child resides as long as the contact occurs where the child resides a minimum of once every 60 days. Section 405.05.a. Such contact for a child placed in an in-state group or residential care facility (an “intensive treatment facility” under the existing rule) located a significant distance from the responsible party’s office must occur once every 90 days with telephone contact occurring at least monthly. Section 405.05.c. For children in out-of-state placements through the Interstate Compact on the Placement of Children, face-to-face must be made by the Idaho responsible party, representative of the placement state or a contracted private agency at least every six months. Section 405.05.e.

The proposed rule eliminates the presumption that the discharge planning, developed with all interested parties, occurs specifically when the discharge is from alternate care into family services. Section 405.06.

The proposed rule clarifies that the alternate care plan is to be written and specifies that the plan must be developed within 30 days after a child has been placed in alternate care (rather than after the decision has been made to do so). Section 422.02. Also clarified is that all parties involved in developing the alternate care plan will be asked (rather than “required”) by the Department to sign that plan. Section 422.02.c.i.

F. Eligibility and Funding Information.

Clarified by the proposed rule is that the Department will reimburse alternate care providers (rather than “foster parents”) moneys paid by parents for the cost of their child’s room and board. Section 436.02.b.

G. Licensure and Reimbursement of Alternate Care Providers.

Similarly, the proposed rule reflects that payments from the Department are to be made to the family alternate care providers, rather than to foster care providers. Sections 483 and 484. The proposed rule clarifies that school fees due upon enrollment are paid directly to the school or to the alternate care providers. Section 483.03.

The proposed rule deletes the characterization of additional payments to alternate care providers for required additional care as “specialized.” Section 484. Qualifying for additional payment is the highest levels of need item of “severe emotional or behavioral disturbance,” an undefined term under the proposed rule. Section 484.03.a. The proposed rule provides that placement of children with “severe emotional or behavioral problems” into a residential care facility (“intensive treatment facility” under the existing rule) is based on the documented needs of the child and the inability of less restrictive settings to meet those needs. Section 487.

H. Child Protection Services.

The proposed rule clarifies that substantiation of child abuse, neglect or abandonment may be established by a court in an adjudicatory hearing, section 560.01.b, and deletes the “reasonable person” standard from the alternate “established by evidence” method of substantiating such abuse, neglect or abandonment, section 560.01.e.

The proposed rule clarifies that names on the Child Protection Central Registry may be released with the written consent of the individual on whom the Department criminal history and background check is being conducted (rather than the person requesting the check) in accordance with Department rule. Section 562. [Note: even with this clarification, the rule is somewhat confusing since it suggests that Registry “names” may be released with the consent of a person on whom a check is being conducted.]

Section 563 has been amended by the proposed rule to provide for the assignment of a level of risk, Level One through Level Three, once an incident of abuse, neglect or abandonment has been substantiated. Under the existing rule there are four levels.

Level Two under the proposed rule has been amended to eliminate the “potentially dangerous” qualifier to: drug paraphernalia, manufacture of controlled substances and chemical components used in the manufacture of controlled substances, section 563.02.c; restraint or confinement of a child, section 563.02.g; and medical neglect, section 563.02.f. Under Level Three, the “potentially dangerous” qualifier has been eliminated from” lack of supervision, section 563.03.a; failure to protect from abuse, neglect or abandonment, section 563.03.b; and failure to discharge parental responsibilities, section 563.03.c. The proposed rule also applies “harm to the health, safety or well-being standard of the child” to all qualifying Level Three behaviors, rather than just the “failure to discharge parental responsibilities” behavior.

Child Protection Level Four, behaviors that have been determined to pose a low risk of future harm to children which do not qualify for placement on the Registry, has been deleted by the proposed rule. Existing section 563.04.

The proposed rule creates new section 564, which sets forth the required procedure to be followed before an individual's name is placed on the Registry. This procedure includes: specified notice to the individual of a substantiated incident; the automatic placing of the individual's name on the Registry if the individual does not request review within 28 days; administrative review by the FACS Division Administrator if review is timely requested; and notice to the individual of the Division Administrator's decision, with specified information, including the right to appeal, required to be included in the notice of an adverse decision placing the individual's name on the Registry.

The proposed rule also creates a new section 565, permitting an individual whose name was placed on the Registry prior to October 1, 2007, to file a petition to have his name removed. This new section represents a reorganization of the information contained in existing rule 564.04.

Section 566 of the proposed rule sets for the procedure for removing an individual's name from the Registry. The proposed rule clarifies that to be eligible to file the name removal petition, the required minimum time on the Registry must have elapsed and that an individual with a Level One designation is not eligible to file a petition.

I. Children's Mental Health Services.

Deleted by the proposed rule and moved to the new chapter, in whole or in part, are the following existing rule sections: section 640, child mental services; section 641, outcomes; 642.04, access to services, use of public funds and benefits; section 645, fee determination for services other than out-of-home care.

The proposed rule deletes (and does not move to the new chapter): subsections 01, local resources and plan development, 02, payment for treatment and 03, involuntary placement under the Children's Mental Health Services Act, of section 642, access to services; section 644, sliding scale fee table on annual household income; subsection 02, approval to file a petition, of section 711, decision and approval process for termination of parent and child relationship (TPR).

J. Termination of Parent-Child Relationship.

The proposed rule requires that any recommendation to the Child and Family Services program manager regarding the termination of parental rights must receive written approval by the program manager before a petition to terminate may be filed. Section 711.

[Note: The existing rule citation to section 16-1610(b)(2)(iv), Idaho Code, purporting to

provide a definition of “reasonable efforts,” is in error. Existing section 720.02. As far as can be determined, “reasonable efforts” is not defined in Idaho Code.]

K. Becoming an Adoptive Parent.

The proposed rule deletes the requirement that the original and one copy of the completed home study and all supporting documentation must be submitted to the State Adoption Program specialist immediately upon approval of the supervisor. Section 762.03. The proposed rule clarifies that the adoptive parent must keep the agency or certified adoption professional that completed the home study of any changes in the family’s circumstances. The proposed rule deletes the requirement that an applicant maintain contact with the Department on an annual basis and, in the absence of contact, the Department initiate contact (and provide written verification of such contact as an update to the adoption home study) on an annual basis to confirm the accuracy of information in the files and the status of the application. Section 763.

The proposed rule no longer requires the adoptive home study or an update of that study to contain a photograph of the adopting family. Sections 770.04 and 880.02. The proposed rule requires adoption application and any subsequent such application to contain at least three satisfactory references, one of which may be from a person related to the applicant, and provide additional references upon request of the children’s agency. Sections 770.04 and 880.01. New section 771 requires that an adoptive home study be updated on an annual basis, defining a “current home study” as one that has been completed within the previous twelve months.

L. The Adoptive Placement.

The proposed rule simply provides that independent adopting placements are handled under section 16-1506, Idaho Code, deleting the details from section 850, independent, relative and stepparent adoptions. Deleted by the proposed rule is the requirement that the final decision to remove a child from a prospective adoptive home be reported to the State Adoption Program specialist. Section 870. Adoptive parents, who have experienced a successful adoption and wish to reapply, must submit three references, down from four references in the existing rule. Section 880.01.

M. Certified Adoption Professional.

An applicant requesting to become a Certified Adoption Professional must complete a Department criminal history and background check in accordance with Department rule. Section 889.03. If the professional does not apply for recertification within four years in accordance with rule, the certification will lapse, requiring a new application with specified documentation. Section 890.03. If the individual filing the new application has received a Department criminal history and background check within three years of the application and has not resided outside of Idaho since then, a name-based background check by the Idaho State Police and a check of the Idaho Child Protection Central Registry, the Idaho Adult Protection Registry and the Idaho

Sexual Offender Registry is required to determine if any disqualifying crimes or appearances are found. Section 890.03.a. If the applicant has resided outside Idaho during the three years, a new Department criminal history and background check is required. Section 890.03.b.

N. Adoption Assistance.

The proposed rule deletes the requirement that an Aid to Families with Dependent Children (AFDC) eligible child must meet the AFDC criteria in the month the adoption petition is filed to be eligible for adoption assistance. Section 900.01.a. One factor used to qualify a child as “special needs” is an order terminating parental rights from a court of competent jurisdiction or an Abandonment Certificate (or equivalent) from a domestic or foreign governmental entity establishing that the child cannot or should not be returned to the home of the parents. Section 900.02.a.

Under the proposed rule, an adoption assistance program agreement must specify: that there will be an annual review of each agreement by the Department to evaluate the need for continued subsidy and the amount of subsidy; that the agreed type and amount of assistance may be adjusted only with the concurrence of the adoptive parent(s) based upon changes in the needs of the child or changes in the circumstances of the adoptive family; and that the assistance is subject to the continuing availability of funds. The proposed rule deletes the requirement that the agreement provide the date of annual renewals or that payments begin after the final certified copy of the Order of Adoption is received by the Department. Section 911.01.

SUMMARY

The Department’s proposed rule dealing with the Child Protection Central Registry appears to be authorized under sections 16-1629, 39-1211, 56-202(b), 56-204A, and 56-1004A , Idaho Code.

cc: Department of Health and Welfare
Tamara Prisock, & Kathy Morris

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.06.01 - RULES GOVERNING FAMILY AND CHILDREN'S SERVICES

DOCKET NO. 16-0601-0801

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections: 16-1629, 16-2102, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, and 56-1004A, Idaho Code; also Social Security Act, Title IV-E, Sections 471(a)(14) and 473(c)(3)(B).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, October 15, 2008.

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

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

The following changes are being made to this chapter of rules:

1. The 2008 Legislature passed rule changes related to the revamped Child Protection Central Registry, but expressed some concerns. This docket makes changes that address those concerns, including: clarification of due process language, replacement of references to what "a reasonable person would conclude" with more objective "evidence-based" language, and other changes to clarify the intent of the rule.
2. The rules for children's mental health services are being deleted from this chapter and are being moved into new chapter IDAPA 16.07.37, "Children's Mental Health Services," publishing in this bulletin under Docket No. 16-0737-0801.
3. The rules regarding federally-funded adoption and foster care assistance (Title IV-E) are being updated to align with recent changes to the federal statutes that govern this program.
4. The rules regarding adoption are being updated to reflect recent streamlining and decentralization of the Department's adoption process.
5. Finally, the title of the chapter is being amended to: "Child and Family Services." Other minor corrections and revisions are being made to the rule to assure consistent use of terminology and to comply with the Department's plain language standards.

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

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

The only rule changes in this docket that will have a fiscal impact are those related to the Child Protection Central Registry:

1. Estimated *annual* costs for sending substantiated letters by certified mail, return receipt requested: \$5,900.
2. Estimated *one-time* cost for changes related to the Department's automated system (FOCUS) used to manage the data for the Child Protection Central Registry: \$2000.

Total estimated cost for implementation of rule changes related to the Child Protection Central Registry: \$7,900.

NEGOTIATED RULEMAKING: Pursuant to 67-5220(1), Idaho Code, negotiated rulemaking was not conducted.

The amendments to the Child Protection Central Registry contain changes agreed upon by the Department and the 2008 Legislature. The children's mental health services rules being moved into new chapter IDAPA 16.07.37 are being negotiated under that docket. The Title IV-E changes were made to align the rule with changes in federal law and therefore are not subject to negotiation. The remaining changes were either clerical corrections or edits made to align the rules with the Department's current business process and plain language standards.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathy Morris at (208) 334-5706.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, October 22, 2008.

DATED this 20th day of August, 2008.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0601-0801

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

000. LEGAL AUTHORITY.

The Idaho Legislature has delegated to the Department, or the Board of Health and Welfare, or both jointly, the responsibility to establish and enforce such rules and methods of administration as may be necessary or proper to administer social services to people who are in need, under the following Sections: 16-1629, 16-2102, ~~16-2406, 16-2423, 16-2433,~~ 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), ~~56-203B,~~ 56-204A, 56-803, 56-1003, 56-1004, and 56-1004A, Idaho Code. (4-2-08)(____)

001. ~~TITLE, AND SCOPE, AND GOAL.~~

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

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

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

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

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

03. **Goal.** The goal of all Child and Family Services programs is the safety, permanency, and well-being of children, as well as promoting the stability and security of Indian tribes and families. (____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.

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

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

~~021. **Adoption Assistance.** Funds provided to adoptive parent(s) of a child~~ren~~ who ~~have~~ has special needs or who could not be adopted without financial or medical assistance. (3-30-07)(____)~~

~~032. **Adoption Services.** Protective services through which a child~~ren are~~ is provided with a permanent home~~s~~, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the parent-child relationship. (3-30-07)(____)~~

~~043. **Alternate Care.** Temporary living arrangements, when necessary for a child to leave his own home, through a variety of foster care, respite care, residential treatment and institutional resources, ~~in accordance with~~ under the protections established in Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997, the Child Protective Act, Section 16-1601 et seq., Idaho Code, and the Indian Child Welfare Act, 25 USC Sections 1901-1963. (3-30-01)(____)~~

~~054. **Alternate Care Plan.** A federally-required component of the Family Plan for a child~~ren~~ in alternate care. The alternate care plan contains elements related to reasonable efforts, the family's plan, the child's alternate care provider, compelling reasons for not terminating parental rights, Indian status, education, immunization, medical and other information important to the day-to-day care of the child. (5-3-03)(____)~~

~~065. **Area of Concern.** Circumstances that brought a child and family to the attention of the Department. These circumstances typically involve safety issues that put the child at risk of harm. (3-30-07)~~

~~076. **Assessment.** The first step in the planning process, the outcome of which is the systematic documentation of the family's areas of concern, their strengths, and desired outcomes. (3-30-07)~~

~~087. **Board.** The Idaho State Board of Health and Welfare. (3-18-99)~~

~~098. **Case Management.** A change-oriented service to families that assures and coordinates the provision of family risk assessment, family ~~ease service~~ planning, treatment ~~and other services~~, planning for permanency, protection, advocacy, review and reassessment, documentation, and timely closure of a case. (3-30-07)(____)~~

~~409. **Certified Adoption Professional (formerly "qualified individual").** An individual certified by the Department who meets the qualifications specified in Section 889 of these rules for completion of pre-placement adoption home studies, reports to the court under the Termination of Parent and Child Relationship and Adoption of Children Acts, and placement supervision reports. (3-20-04)~~

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

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

- ~~b.~~ ~~Present a significant risk of harm to themselves or to others, due to their mental illness; and~~ (3-30-01)
- ~~e.~~ ~~Because of their mental illness are at risk for out of home placements or are currently in out of home placement and lack adequate resources to participate in their community's non public system of care; or~~ (3-30-01)
- ~~d.~~ ~~Are involuntarily committed to the Department for out-of-home placement.~~ (3-30-01)
- ~~12.~~ ~~**Child Mental Health Services.** Services provided in response to the needs of children with a serious emotional disturbance and their families. These services are provided in accordance with the provisions of Section 16-2402 et seq., Idaho Code, the "Children's Mental Health Services Act."~~ (3-30-01)
- 130.** **Child Protection.** All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing or shelter must be served without regard to income. (3-30-07)
- 141.** **Child Protective Services.** Services provided in response to potential, alleged, or actual abuse, ~~abandonment or~~ neglect, or abandonment of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act." (3-18-99)(____)
- 152.** **Compact Administrator.** The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-2101 et seq., Idaho Code; "Interstate Compact on the Placement of Children," Section 16-1901 et seq., Idaho Code; ~~or the "Interstate Compact on Mental Health," Section 66-1201 et seq., Idaho Code;~~ or the "Interstate Compact on Adoption and Medical Assistance," Section 39-7501 et seq., Idaho Code. (3-20-04)(____)
- 163.** **Day Care for Children.** Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-18-99)
- ~~17.~~ ~~**Day Treatment Services.** Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational and family interventions provided on a regularly scheduled, typically daily, basis.~~ (3-18-99)
- 184.** **Department.** The Idaho Department of Health and Welfare. (3-18-99)
- 195.** **Deprivation.** One of the factors used in determining Aid to Families with Dependent Children -- Foster Care (AFDC-FC) eligibility for children in foster care. Deprivation is a lack of, or interruption in, the maintenance, physical care, and parental guidance a child ordinarily receives from one (1) or both parents. A child is deprived by the continued absence of a parent, incapacity of a parent, death of a parent, unemployment or underemployment of the principal wage earner parent. (3-30-07)
- 2016.** **Desired Result.** Behaviorally-specific description of how the family circumstances will look when the risk factors that brought a child and family to the Department's attention, either no longer exist or are significantly reduced. (3-30-07)
- 217.** **Director.** The Director of the Idaho Department of Health and Welfare or his designee. (3-30-07)
- 2218.** **Extended Family Member of an Indian Child.** As defined by the law, or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (3-30-01)

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.

For the purposes of these rules, the following terms are used ~~as defined in Section 011:~~ (3-30-07)(____)

01. Family. Parent(s), legal guardian(s), related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (5-3-03)

02. ~~Family and Children's and Family Services.~~ Those programs and services directed to families and children, administered by the Department and provided in accordance with these rules. (3-30-07)(____)

03. Family Assessment. An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and safety threats to family integrity, unity, or the ability to care for their members. (3-30-07)

04. Family Case Record. Electronic and hard copy compilation of all documentation relating to a family, including ~~but not limited to,~~ legal documents, identifying information, and evaluations. (3-30-01)(____)

05. Family (Case) Plan. Also referred to as a family service plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders or leaders should be consulted early in the plan development. (3-30-07)

06. Family Services Worker. Any of the direct service personnel, including social workers, ~~psychologists, counselors and family therapists,~~ working in regional *Family and Children's and Family Services* Programs. (3-20-04)(____)

07. Field Office. A Department of Health and Welfare service delivery site. (3-18-99)

08. ~~FOCUS (Family Oriented Community User System).~~ ~~This is the Department's computer information system used by Family and Children's Services personnel to maintain federally required child welfare information. FOCUS provides a case management system for Child Protection, Adoptions, Children's Mental Health, Interstate Compact, and Independent Living for the Department.~~ (3-30-07)

09. Goal. A statement of the long term outcome or plan for the child and family. (3-18-99)

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

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

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

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

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

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

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

- 154. Indian Child Welfare Act (ICWA).** The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-18-99)
- 165. Indian Child's Tribe.** (3-18-99)
- a.** The Indian tribe in which an Indian child is a member or eligible for membership, or (3-18-99)
- b.** In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (3-18-99)
- 176. Indian Tribe.** Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-18-99)
- 187. Intercountry Adoption Act of 2000 (P.L. 106-279).** Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (5-3-03)
- 198. Interethnic Adoption Provisions of 1996 (IEPA).** IEPA prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color or national origin of the adoptive or foster parent(s), or the child involved. (5-3-03)
- 2019. Interstate Compact on the Placement of Children (ICPC).** Interstate Compact on the Placement of Children (ICPC) in Chapter 21, Title 16, Idaho Code, ensures that the jurisdictional, administrative and human rights obligations of interstate placement or transfers of children are protected. (3-20-04)
- 240. Kin.** Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers and members of a child's Indian tribe. Also known as fictive kin. (3-30-01)
- 012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.**
For the purposes of these rules, the following terms are used *as defined in Section 012:* (~~3-30-07~~)(____)
- 01. Legal Guardianship.** A judicially-created relationship, including one made by a tribal court, between a child and a relative or non-relative caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: protection, education, care and control of the person, custody of the person, and decision making. The term "legal guardian" means the caretaker in such a relationship. For purposes of these rules a child must be in Department guardianship at the time the Petition for Legal Guardianship is filed with the court. Department guardianship may only take place when there has been a termination of parental rights. (5-3-03)
- 02. Licensed.** Facilities or programs are licensed in accordance with the provisions of IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-30-07)
- 03. Licensing.** See IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," Section 100. (3-30-07)
- 04. Medicaid.** See "Title XIX." (3-30-01)
- 05. Multiethnic Placement Act of 1994 (MEPA).** MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color or national origin. (3-18-99)

06. Parent(s). ~~The~~ A person(s) who, by birth or through adoption, is considered legally responsible for a child. ~~For purposes of these rules, when it is necessary to be more specific, identifiers will be added to parent(s): birth parent(s), foster parent(s), adoptive parent(s), step parent(s), and pre-adoptive parent(s).~~ The term "legal guardian(s)" is not included in the definition of parent(s). (3-20-04)()

07. Permanency Planning. A primary function of family services initiated in all cases to identify programs, services and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (3-18-99)

08. Personal Care Services (PCS). Services to eligible Medicaid recipients that involve personal and medically-oriented tasks dealing with the physical or functional impairments of the individual. (3-18-99)

09. P.L. 96-272. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980." (3-30-01)

10. P.L. 105-89. Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997," amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (3-30-01)

11. Planning. An orderly rational process which results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. (3-30-01)

~~**12. Purchase of Services.** Provision of services to children and families by local agencies or individuals who contract with DHW. (3-30-01)~~

132. Qualified Expert Witness--ICWA. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (3-18-99)

a. A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (3-18-99)

b. An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; (3-18-99)

c. A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community; or (3-18-99)

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

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

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

165. Respite Care. Time-limited care provided to children. Respite care is utilized in circumstances which require short term, temporary placement care of a child ~~from the home of their usual care giver to that of another licensed or agency approved family~~ by a licensed or agency-approved caregiver different from his usual caregiver. ~~In general, the duration of an episode of respite placement is care ranges~~ from one (1) partial day up to fourteen (14) consecutive days. (3-30-01)()

16. Responsible Party. An individual such as a Department social worker, clinician, or contracted

service provider who maintains responsibility and authority for case planning and case management. ()

013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.

For the purposes of these rules, the following terms are used ~~as defined in Section 013:~~ (3-30-07)()

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

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

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

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

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

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

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

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

~~**086. Title XIX (Medicaid).** Title under the Social Security Act which provides "Grants to States for Medical Assistance Programs." (3-18-99)~~

~~**097. Title XXI.** (Children's Health Insurance Program). Title under the Social Security Act which provides access to health care for uninsured children under the age of nineteen (19). (3-18-99)~~

~~**408. Tribal Court.** A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. (3-18-99)~~

~~**409. Unmarried Parents' Services.** Unmarried parent(s) sServices are aimed at achieving or maintaining self-reliance or self-support for unmarried parent(s). These services include counseling for ~~at~~ any unmarried parent(s) who need such service in relation to their plans for their children and arranging for and paying for prenatal and confinement care for the well-being of the parent and infant. Services for unmarried parents are provided in accordance with Section 56-204A, Idaho Code. (3-30-07)()~~

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

014. -- 019. (RESERVED).

GENERAL REQUIREMENTS AND SERVICES
(Sections 020 -- 239)

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

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

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

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

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

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

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

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

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

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

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

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

021. -- 029. (RESERVED).

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

The following core services are the state and federally mandated services provided by or through regional ~~Family and~~

Children's and Family Services offices: (3-30-01)(____)

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

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

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

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

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

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

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

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

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

109. Independent Living. ~~The assessment, planning, and provision of s~~Services, including assessment and planning, provided to eligible youth to promote self-reliance and successful transition to adulthood. Eligibility

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

a. Eligibility Requirements for Current Foster Youth. To be eligible for independent living services, a current foster youth must: ()

i. Be fifteen (15) to nineteen (19) years of age; ()

ii. Currently be under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or be under a voluntary agreement for continued care if the youth is between eighteen (18) and nineteen (19) years of age; and ()

iii. Have been in foster care or similar eligible setting for a minimum of ninety (90) total days. ()

b. Eligibility Requirements for Former Foster Youth. To be eligible for independent living services, a former foster youth must: ()

i. Be a former foster youth who is currently under twenty-one (21) years of age; and ()

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

iii. Have been placed in foster care or similar eligible setting for a minimum of ninety (90) days total after reaching fifteen (15) years of age; or ()

iv. Be eighteen (18) to twenty-one (21) years of age, provide verification of meeting the Independent Living eligibility criteria in another state, and currently be a resident of Idaho. ()

c. Eligibility Limit. Once established, a youth's eligibility is maintained up to his twenty-first birthday, regardless of whether he continues to be the responsibility of the Department, tribe, or be in foster care. ()

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

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

a. Child care licensing; (3-30-01)

b. Day care licensing; (3-30-01)

c. Community development; and (3-30-01)()

d. Contract development and monitoring; and (3-30-01)()

e. ~~Pre-authorization of care.~~ (3-30-01)

~~031. 039. (RESERVED).~~

~~040. FAMILY SERVICES PRACTICE.~~

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

0431. -- 049. (RESERVED).

050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.

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

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

- a. Efforts to prevent or eliminate the need for a child to be removed from his home; ~~and~~ (5-3-03)(____)
- b. Efforts to return a child home are not required due to a judicial determination of aggravated circumstances; and (5-3-03)
- c. Efforts to finalize a permanent plan, so that each child in the Department's care will have a family with whom the child can have a safe and permanent home. (5-3-03)

02. Active Efforts. For an Indian child, a description of the active efforts made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family; that these efforts have proved unsuccessful; and that based on qualified expert information, continued custody by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child. (5-3-03)

03. ICWA Preferences. If appropriate, application of the placement preference for placement in accordance with the Indian Child Welfare Act, or a detailed explanation of good cause for not applying the preferences. (3-18-99)

04. Least Restrictive Setting. Efforts will be made to assure that any child in the Department's care, ~~especially those children in care due to an emotional or behavioral disturbance,~~ resides in the least restrictive, most family-like setting possible. Placement will be made in the least restrictive setting and in close proximity to the parent(s) or if not, written justification that the placement is in the best interest of the child. For an Indian child, placement in the least restrictive setting is that setting which most approximates a family and is within reasonable proximity to the child's home taking into account any special needs of the child. (3-30-07)(____)

05. Legal Requirements for Indian Children. In the case of an Indian child, notice of the pending proceeding must be sent by Certified Mail, Return Receipt Requested to the parent(s) or Indian custodian(s) and the Indian child's tribe, including notice of their right to intervene; their right to twenty (20) days additional time to prepare for the proceeding; the right to appointment of counsel if the parent(s) or Indian custodian(s) is indigent; the right to examine all documents filed with the court upon which placement may be based; and the right to withdraw consent to a voluntary foster placement. (3-30-07)

06. Visitation for Child's Parent(s) or Legal Guardian(s). Visitation arrangements must be provided to the child's parent(s) or legal guardian(s) unless visitation is contrary to the child's safety. (3-30-07)

07. Notification of Change in Placement. Written notification to the child's parent(s) or legal

guardian(s) within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting, or similar notice to the parent(s) or Indian custodian(s) of an Indian child, and the Indian child's tribe, which includes the information described in Section 051 of these rules entitled Notice Required for ICWA. (5-3-03)

08. Notification of Change in Visitation. Written notification to the child's parent(s) or legal guardian(s) if there is to be a change in their visitation schedule with their child or ward in foster care. (5-3-03)

09. Notification of Right to Participate and Appeal. Written notification to the child's parent(s) or legal guardian(s) must be made regarding their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation. (3-30-07)

10. ICWA Placement Preferences. Compliance with the foster care placement preferences of the Indian Child Welfare Act. (3-18-99)

11. Compliance with Requirements of the Multiethnic Placement Act and Interethnic Adoption Provisions. (3-30-01)

12. Family Decision Making and Plan Development. (3-30-01)

a. A family plan will be completed within thirty (30) days of the date the case was opened. (3-30-07)

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

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

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

14. ASFA Placement Preferences. The following placement preferences will be ~~used~~ considered in the order listed below when recommending and making permanency decisions: ~~(3-30-01)()~~

a. Return home if safe to do so; (3-30-01)

b. Adoption or legal guardianship by a relative or kin; ~~(3-30-01)()~~

~~**c.** Adoption or legal guardianship by kin;~~ ~~(3-30-01)~~

~~**d.** Adoption or legal guardianship by non-relative;~~ (3-30-01)

~~**e.** Other~~ Another planned permanent ~~placement~~ living arrangement such as long-term foster care. ~~(3-30-01)()~~

051. NOTICE REQUIRED FOR ICWA.

Wherever these rules require notice to the parent(s) or custodian(s) and tribe of an Indian child, notice ~~shall~~ must also be provided to the Secretary of the Interior by certified mail with return receipt requested to Department of the Interior, Bureau of Indian Services, Division of Social Services, Code 450, Mail Stop 310-SIB, 1849 C Street, N.W.,

Washington, D.C. 20240. In addition, ~~pursuant to~~ under 25 CFR Section 23.11, copies of such notices ~~shall~~ must be sent by certified mail with return receipt requested to the Portland Area Director, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232. If the identity or location of the parent(s) or Indian custodian(s) and the tribe cannot be determined, notice of the proceeding ~~shall~~ must be given to the Secretary, who ~~shall~~ must provide notice to the parent(s) or Indian custodian(s) and tribe. (5-3-03)(____)

052. -- 059. (RESERVED).

060. FAMILY CASE RECORDS.

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

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

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

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

~~061. -- 069. (RESERVED).~~

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

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

~~071. -- 239. (RESERVED).~~

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

240. SIX-MONTH REVIEWS ~~CONDUCTED BY THE DEPARTMENT~~ FOR CHILDREN IN ALTERNATE CARE PLACEMENT.

~~Unless~~ When a judicial review does not occurs at the end of a six (6) month period ~~in a Child Protective Act placement or other out of home placement including placements under the Children's Mental Health Services Act, placements of children where the Department is the child's guardian for any child in alternate care placement,~~ the Department will conduct an ~~individual family~~ case review to assure compliance with all applicable state and federal laws, and to ensure the plan focuses on the goals of safety, permanency and well-being of the child. (3-30-07)(____)

01. Notice of Six Month Review. The parent(s) or legal guardian(s), foster parent(s) of a child, and any preadoptive parent(s) or relative(s) providing care for the child ~~and an Indian child's tribe, if appropriate,~~ are to be provided with notice of ~~and an opportunity~~ their right to be heard in the six ~~(6)~~-month review. In the case of an Indian child, the child's tribe and Indian custodian (if there is one), must also be provided with notice. This must not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party

~~solely~~ to the review solely on the basis of the receipt of such notice ~~and opportunity to be heard~~. Participants have the right to be represented by the individual of their choice. (3-30-07)(____)

02. Procedure in the Six Month Review. The parties who received notice will be given the opportunity ~~for face to face discussion including attending, asking questions and making statements~~ to participate in the case review. (3-30-07)(____)

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

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

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

05. Recommendations and Conclusions of Six-Month Review Panel. Following the six-month review, written conclusions and recommendations will be provided to all participants, subject to Department safeguards for confidentiality. The ~~decision~~ document containing the written conclusions and recommendations must also ~~provide~~ include appeal rights. (3-30-07)(____)

241. -- 249. (RESERVED).

250. PERMANENCY HEARINGS.

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

01. Attendance at Permanency Hearings. The permanency hearing ~~shall~~ includes, at a minimum, the child's parent(s) or legal guardian(s), foster parent(s) of a child, and any preadoptive parent(s) or relative(s) providing care for the child, ~~and/or the child's Indian tribe, if appropriate~~. In the case of an Indian child, the child's tribe and Indian custodian (if there is one), must also be included in the permanency hearing. Parties ~~shall~~ will be provided, by the court, with written notice of the hearing and ~~opportunity~~ of their right to be heard. This ~~shall~~ is not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to the hearing solely on the basis the receipt of such notice ~~and opportunity to be heard~~. (5-3-03)(____)

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

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

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

251. CITIZEN REVIEW PANELS.

To meet the federal requirement for Citizen Review Panels, ~~the~~ Department ~~shall have~~ has established a Citizen Review Panel~~s~~ in each region to review child protection cases and make recommendations for improving the child welfare system. ~~(3-18-99)~~(____)

252. -- 399. (RESERVED).

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

400. AUTHORITY FOR ALTERNATE CARE SERVICES.

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

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

02. Voluntary Placement. Upon agreement with the parent(s) or legal guardian(s) when circumstances interfere with their provision of proper care or they are no longer able to maintain a child ~~with serious emotional disturbance~~ in their home and they can benefit from social work and treatment services. A service plan and an out-of-home placement agreement must be developed between the Department and the family. The service plan will identify areas of concern, goals, desired results, time frames, tasks and task responsibilities. The out-of-home placement agreement will include the terms for reimbursement of costs with any necessary justification for deviation from Child Support guidelines. A voluntary agreement for out-of-home placement entered into between the Department and the parent(s) or legal guardian(s) of a minor child may be revoked at any time by the child's parent(s) or legal guardian(s). A contract between the Department and the service provider, if applicable, must also be in effect. Voluntary out-of-home placements exceeding one hundred eighty (180) days without a judicial determination that it is in the best interests of the child to continue his current placement, cannot be reimbursed by Title IV-E funds. ~~(3-30-07)~~(____)

401. CONSIDERATIONS FOR PLACEMENT IN ALTERNATE CARE.

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

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

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

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

402. INVOLUNTARY PLACEMENT OF INDIAN CHILDREN.

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

- 01. Extended Family.** A member of the Indian child's extended family; (3-18-99)
- 02. Foster Home Approved by Tribe.** A foster home licensed, approved, or specified by the Indian child's tribe; (3-18-99)
- 03. Licensed Indian Foster Home.** An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or (3-18-99)
- 04. Indian Institution.** An institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the child's needs. (3-18-99)

403. DATE A CHILD ENTERED FOSTER CARE.

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

404. (~~RESERVED~~) FOSTER CARE GOAL.

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

405. ALTERNATE CARE CASE MANAGEMENT.

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

- 01. Preparation for Placement.** Preparing a child for placement in alternate care is the joint responsibility of the child's family, the child (when appropriate), the family services worker and the alternate care provider. (3-30-07)
- 02. Information for Alternate Care Provider.** The Department and the family must inform the alternate care provider of their roles and responsibilities in meeting the needs of the child including: (3-30-07)
 - a.** Any medical, health and dental needs of the child including the names and address of the child's health and educational providers, a record of the child's immunizations, the child's current medications, the child's known medical problems and any other pertinent health information concerning the child; (3-18-99)
 - b.** The name of the child's doctor; (3-18-99)
 - c.** The child's current functioning and behaviors; (3-18-99)
 - d.** The child's history and past experiences and reasons for placement into alternate care; (3-30-01)

- e. The child's cultural and racial identity; (3-18-99)
- f. Any educational, developmental, or special needs of the child; (3-18-99)
- g. The child's interest and talents; (3-18-99)
- h. The child's attachment to current caretakers; (3-18-99)
- i. The individualized and unique needs of the child; (3-18-99)
- j. Procedures to follow in case of emergency; and (3-18-99)
- k. Any additional information, that may be required by the terms of the contract with the alternate care provider. (3-18-99)

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

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

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

a. Face-to-face contact ~~in the alternate care setting~~ with ~~the~~ a child by the ~~family services worker~~ responsible party must occur at least monthly or more frequently depending on the needs of the child or the provider, or both, and the stability of the placement. Face-to-face contact may be made in settings other than where the child resides as long as contact between the responsible party and the child occurs where the child resides a minimum of once every sixty (60) days. (3-30-07)()

b. The Department will have strategies in place to detect abuse, ~~or~~ neglect, or abandonment of children in alternate care. (3-30-07)()

c. ~~Regular~~ Face-to-face contact ~~with children placed in intensive treatment facilities~~ between the responsible party and a child placed in an in-state group or residential care facility, ~~in or out of state, must occur at~~ located a significant distance from the responsible party's office is required a minimum of once every ninety (90) days. Communication by phone between the responsible party and the child must occur at least monthly. (3-30-07)()

d. Frequent and regular contact between the child and parents and other family members will be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures and the use of video and other technology as may be relevant and available. (3-30-07)

e. ~~When a child is placed in foster care in another state, a Department family services worker must maintain at least monthly contact with the child and family with whom he has been placed as long as the state of Idaho has custody of the child. The supervising agency in the state where the child is living is required to maintain monthly, face-to-face contact with the child and the family and make quarterly reports to the Department in accordance with arrangements made through the Interstate Compact on the Placement of Children. Children who are in out-of-state placements through the Interstate Compact on the Placement of Children (ICPC) must be contacted face-to-face no less frequently than every six (6) months, by either the responsible party in Idaho, by a representative of the state in which the child is placed, or by a private agency contracted by either.~~ (3-30-07)()

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

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

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

406. -- 421. (RESERVED).

422. ALTERNATE CARE PLANNING.

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

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

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

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

02. ~~Development of the Written~~ Alternate Care Plan. The Department must have completed a written alternate care plan shall be developed within thirty (30) days after ~~a decision has been made to place~~ a child has been placed in alternate care. ~~(3-18-99)~~(____)

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

b. The alternate care plan ~~shall~~ must include documentation that ~~the~~ a parent(s) or legal guardian(s) have been provided written notification of: ~~(5-3-03)~~(____)

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

ii. Any change of placement ~~immediately, and at the latest within seven (7) days~~, when the child is relocated to another alternate care or institutional setting immediately, and no later than seven (7) days after placement; and ~~(3-18-99)~~(____)

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

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

i. Will be required asked by the Department to sign the alternate care plan which includes a statement indicating that they have read and understood the alternate care plan; and ~~(3-18-99)~~(____)

ii. Will receive a copy of the alternate care plan from the Department. ~~(3-18-99)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

426. AFDC-FC ELIGIBILITY REQUIREMENTS.

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

AFDC-FC ELIGIBILITY REQUIREMENTS -- TABLE 426	
CONDITION	DESCRIPTION
01. Financial Need.	<p>A child is in financial need if, in the month court action to remove him from his home was initiated, or the month the voluntary out-of-home placement agreement is signed:</p> <p>He was receiving AFDC;</p> <p>He would have been eligible to receive AFDC if an application had been filed on his behalf; or</p> <p>He lived with his parent(s) or other caretaker relative(s) at some time within six (6) prior months and would have qualified for AFDC in the month of court action or voluntary placement if an application had been filed and he lived with a parent(s) or other specified relative(s) in that month.</p>
02. Voluntary Placement in Foster Home or Voluntary Relinquishment.	<p>A foster care placement is voluntary if the parent(s) has a written <u>voluntary services</u> agreement with the Department to place the child in foster care. The parent retains parental rights and may terminate the agreement at any time.</p> <p>A voluntary relinquishment is not a voluntary placement. A voluntary relinquishment occurs when parent(s) permanently gives up rights to a child. A court order is required for a voluntarily relinquished child to qualify for AFDC-FC.</p>
03. Age, Residence, Citizenship, and Deprivation.	<p>The other AFDC requirements the child must meet are:</p> <p>Age;</p> <p>Residence;</p> <p>Citizenship;</p> <p>Deprivation; and</p> <p>The AFDC resource limit.</p>
04. Court Ordered Removal.	<p>A child not voluntarily placed must have been removed from the parent(s) or other caretaker relative(s) by court order.</p> <p>The initial court order must state remaining in the home would be "contrary to the welfare" of the child.</p> <p>For children removed on or after October 1, 1983, the court order must include a determination that reasonable efforts were made to prevent or eliminate the need for removal of the child. This judicial determination must be made within sixty (60) days of removal of the child from his home.</p> <p>The court order must state what reasonable efforts were made considering the family's circumstances and the safety of the child when the child is removed from the home in an emergency.</p> <p>When there is a judicial determination of Aggravated Circumstances, the court order must state that no reasonable efforts to reunify the family are required.</p>
05. Custody and Placement.	<p>The child's placement and care are the Department's responsibility. The child must live in a licensed foster home, licensed institution, licensed group home, or in a licensed relative's home.</p>

(4-6-05)(____)

427. DETERMINATION OF ELIGIBILITY FOR ADC-FC.

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

(BREAK IN CONTINUITY OF SECTIONS)

432. TITLE XIX FOSTER CHILD.

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

- 01. Eligibility Conditions.** A foster child is eligible if: (3-30-01)
 - a.** He is under age twenty-one (21); (3-30-01)
 - b.** He is not a recipient of AFDC-FC or SSI; (3-30-01)
 - c.** A Departmental program other than the Medical Assistance or Welfare Programs has assumed full or partial financial responsibility for him; (3-30-01)
 - d.** His countable resources do not exceed the AFDC resource limit. In addition to the AFDC resource exclusions, the child may have an additional amount up to five thousand dollars (\$5,000) excluded if held in trust for him; (3-30-01)
 - e.** After applying the applicable AFDC income exclusions and earned income disregards, an additional income disregard of seventy dollars (\$70) is deducted; and (3-30-01)
 - f.** Total income must not exceed two hundred thirteen dollars (\$213) monthly. (3-30-01)
- 02. Ongoing Eligibility.** If a foster child is determined eligible to receive Title XIX Medicaid, the following provisions apply: (3-30-01)
 - a.** His eligibility must be redetermined at least once every six (6) months. (3-30-01)
 - b.** His eligibility must cease and other funding sources for medical care must be utilized if the foster home's license is revoked or expires and an application for license renewal is not on file, or if the child returns to his own home even if the Department retains legal custody of such child. (3-30-01)
- 03. Hospitalized Foster Child.** Where a child who is otherwise eligible for Title XIX Medicaid as a foster child is placed in a hospital prior to being physically placed in foster care, the child is considered to be living in a licensed foster care situation if the regional team appointed to review hospitalization of foster children certified in writing that the plan for the child is to place him in foster care immediately upon discharge from the hospital. The certification must include the estimated date on which the child will enter foster care. (3-30-01)

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

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

434. FORWARDING OF BENEFITS.

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

436. PARENTAL FINANCIAL SUPPORT FOR CHILDREN IN ALTERNATE CARE.

In accordance with Section 56-203B, Idaho Code, parents are responsible for costs associated with the care of their child ~~or children. Upon consideration of any~~ in alternate care ~~for a child:~~ (3-18-99)(____)

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

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

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

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

437. ACCOUNTING AND REPORTING.

~~DHW~~ The Department's Division of Family and Community Services, Resource Development Unit ~~shall~~ must account for the receipt of funds and develop reports showing how much money has been received and how it has been utilized. (3-30-01)(____)

438. SUPPORT AGREEMENT FOR VOLUNTARY PLACEMENTS.

If the placement is voluntary, the parent(s) ~~or legal guardian(s)~~ ~~shall~~ must sign an agreement that specifies the amount of support to be paid, when it is to be paid the payee and the address to which it is to be paid. (5-3-03)(____)

439. SUPPORT IN COURT-ORDERED PLACEMENT.

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

440. INSURANCE COVERAGE.

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

(5-3-03)()

441. REFERRAL TO CHILD SUPPORT SERVICES.

The ~~family shall be referred to the State Child Support Agency~~ Department will refer the parent(s) to the Bureau of Child Support Services for support payment arrangements. (3-18-99)()

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

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

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

442. MEDICAID FOR CHILDREN IN ALTERNATE CARE.

Every child placed in alternate care ~~shall~~ will receive a medical card each month. ()

443. EPSDT SCREENING.

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

444. MEDICAL EMERGENCIES.

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

445. DENTAL CARE.

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

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

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

446. COSTS OF PRESCRIPTION DRUGS.

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

(BREAK IN CONTINUITY OF SECTIONS)

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

No Department employee or foster parent is allowed to sign for any foster child's driver's license or permit without

written authorization from the ~~Family and Children's~~ Family Services Program Manager. Any Department employee or foster parent signing for a foster child's driver's license or permit without the approval of the ~~Family and Children's and Family~~ Services Program Manager assumes full personal responsibility and liability for any driving related damages that may be assessed against the child. Those damages will not be covered by the Department's insurance. (3-30-07)()

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

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

(BREAK IN CONTINUITY OF SECTIONS)

481. FACILITIES OPERATED BY THE STATE.

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

(BREAK IN CONTINUITY OF SECTIONS)

483. PAYMENT TO FAMILY ~~FOSTER CARE~~ ALTERNATE CARE PROVIDERS.

Monthly payments for care provided by ~~foster care families~~ family alternate care providers are:

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

(4-6-05)()

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

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

03. School Fees. School fees due upon enrollment ~~shall~~ will be paid directly to the school or to the alternate care providers, based upon the Department's determination of the child's needs. (3-18-99)()

484. ~~SPECIALIZED FOSTER CARE~~ ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.

For those children who require additional care above room, board, shelter, daily supervision, school supplies, personal incidentals, the Department may pay the ~~foster care~~ family alternate care provider an additional amount ~~for specialized foster care above the basic foster care rate~~ to the amount paid under Section 483 of these rules. ~~The specialized foster care~~ This family alternate care rate is based upon a ~~continuous~~ ongoing assessment of the child's circumstances which necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. Additional ~~P~~payment will be made as follows: (3-30-01)()

01. Lowest Level of Need ~~for Specialized Care.~~ Ninety dollars (\$90) per month for a children

requiring a mild degree of ~~specialized~~ care for documented conditions including ~~but not limited to:~~ (3-18-99)(____)

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

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

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

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

486. GROUP FOSTER CARE.

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

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

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

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

487. ~~INTENSIVE TREATMENT RESIDENTIAL CARE FACILITIES.~~

~~Children with serious emotional and/or behavior disturbance may be placed in individualized day treatment or residential care.~~ Placement into a residential care facility for children with a severe emotional or behavioral problems

is based on the documented needs of the child and the inability of less restrictive settings to meet the child's needs. (3-18-99)()

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

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

(BREAK IN CONTINUITY OF SECTIONS)

550. CHILD PROTECTION SERVICES.

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

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

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

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

- a. The church qualifies as tax-exempt under 26. U.S.C. 501(c)(3); (3-18-99)
- b. The confession or confidential communication was made directly to the duly ordained minister of religion; and (3-18-99)
- c. The confession was made in the manner and context which places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine. (3-18-99)

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

552. REPORTING SYSTEM.

Each region of the Department ~~shall~~ maintains a system for receiving and responding to reports or complaints on a twenty four (24) hour per day, seven (7) day per week basis throughout the entire region. The region ~~shall~~ will advertise the system to the public throughout the region and ensure the accurate recording of as many facts as possible at the time of the report. (3-18-99)()

553. ASSIGNING REPORTS FOR RISK ASSESSMENT.

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

554. RESPONSE PRIORITIES.

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

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

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

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

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

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

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

556. REPORTS INVOLVING INDIAN CHILDREN.

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

557. REPORTS INVOLVING MILITARY FAMILIES.

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

(BREAK IN CONTINUITY OF SECTIONS)

560. DISPOSITION OF CHILD PROTECTION REPORTS.

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

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

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

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

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

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

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

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

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

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

561. CHILD PROTECTION CENTRAL REGISTRY.

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

562. CONFIDENTIALITY OF THE CHILD PROTECTION CENTRAL REGISTRY.

The names on the Child Protection Central Registry are confidential and may only be released with the written consent of the individual ~~requesting a~~ on whom a Department criminal history and background check, is being conducted, in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," unless otherwise required by federal or state law. No information is released regarding the severity or type of child abuse, ~~abandonment, or~~ neglect, or abandonment. (4-2-08)(____)

563. ~~SUBSTANTIATED REPORTS~~ LEVELS OF RISK ON THE CHILD PROTECTION CENTRAL REGISTRY.

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

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

~~(4-2-08)~~(____)

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

~~(4-2-08)~~(____)

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

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

~~(4-2-08)~~(____)

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

d. Failure to thrive caused by abuse, ~~abandonment, or~~ neglect, or abandonment, as established by medical evidence; (4-2-08)(____)

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

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

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

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

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

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

03. Child Protection Level Three. An individual with a Level Three designation has been determined to pose a mild to medium risk ~~to children and~~ of harm to the health, safety, or well-being of a child. The name of that individual will remain on the Child Protection Central Registry for a minimum of five (5) years. After the end of the five-year (5) period, an individual may petition the Department to request his name be removed from the Child Protection Central Registry in accordance with Section 5646 of these rules. Names of individuals for whom an incident of abuse, ~~abandonment, or~~ neglect, or abandonment has been substantiated for any of the following are given the designation of Level Three. (4-2-08)(____)

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

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

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

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

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

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

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

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

d. Circumstances in which parent(s) cannot safely provide for their child because the child poses a

~~threat to the safety of the parent(s) or other children in the home and the parent(s) are actively working with the Department or other agency to find a safe and appropriate placement solution for the child.~~ (4-2-08)

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

01. Notification of Substantiated Incident. Prior to placement on the Child Protection Central Registry, the Department will notify by certified mail, return receipt requested, each individual for whom an incident of abuse, neglect, or abandonment has been substantiated. The individual has twenty-eight (28) days from the date on the notification to file a request for an administrative review under the requirements in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." The Department's written notice will state: ()

- a. The risk level assigned to the incident; ()
- b. The basis for the Department's decision; ()
- c. The individual's right to request an administrative review by the Department's Family and Community Services (FACS) Division Administrator of the Department's decision; and ()
- d. The Department's contact information under Section 007 of these rules. ()

02. Administrative Review Not Requested. If the individual does not request an administrative review by the FACS Division Administrator within twenty-eight (28) days from the date on the notification, his name will automatically be entered on the Child Protection Central Registry without further notice or right for appeal. ()

03. Administrative Review Requested. If the individual requests an administrative review by the FACS Division Administrator within twenty-eight (28) days from the date on the notification, the incident will be reviewed by the FACS Division Administrator and a decision will be rendered to either affirm, reverse, or modify, the decision to substantiate the incident of abuse, neglect, or abandonment. The Department will notify the individual of the FACS Division Administrator's decision by mail. ()

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

05. Contested Case Appeal. When the FACS Division Administrator completes the administrative review and affirms the decision to substantiate the incident of abuse, neglect, or abandonment, the individual will be notified by mail that his name has been placed on the Child Protection Central Registry and informed of: ()

- a. The basis for the Department's decision; ()
- b. The procedures for filing a contested case appeal under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," Section 101; ()
- c. The procedures for filing a petition for removal from the Child Protection Central Registry after the applicable minimum time has passed under Section 566 of these rules; and ()
- d. The Department's contact information under Section 007 of these rules. ()

565. PETITION FOR REMOVAL OF AN INDIVIDUAL'S NAME ON THE CHILD PROTECTION CENTRAL REGISTRY PRIOR TO OCTOBER 1, 2007.

After January 1, 2008, an individual whose name was placed on the Child Protection Central Registry prior to October 1, 2007, may file a petition to have his name removed from the registry in accordance with Subsection

566.01 of these rules. The petitioner will be assigned a child protection risk level in accordance with criteria under Section 563 of these rules and the case will be reviewed to determine if it meets the requirements for removal. ()

5646. PETITIONING FOR REMOVAL OF AN INDIVIDUAL'S NAME FROM THE CHILD PROTECTION CENTRAL REGISTRY.

Any individual whose name is on the Child Protection Central Registry and whose required minimum time on the registry has elapsed, may petition the Department to remove his name from the Registry. An individual whose name appears with a Level One designation on the Child Protection Central Registry is not eligible to petition for removal. ()

01. Petitioning for Removal From the Child Protection Central Registry. Any individual whose name appears on the Child Protection Central Registry, ~~other than an individual with a Level One designation~~ with a designation or either Level Two or Level Three, may, ~~after the applicable minimum period of time has passed,~~ petition to have his name removed from the Child Protection Central Registry after the minimum period of time has elapsed for the applicable level. The petition must include a written statement from the petitioner to the Department's FACS Division Administrator requesting that the petitioner's name be removed from the Child Protection Central Registry. ~~The petition will be granted if:~~ The Department's address is found under Section 007 of these rules. (4-2-08)()

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

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

b. There are no convictions, adjudications, or withheld judgments for any of the following crimes listed under Subsection 566.03 of this rule: ()

i. ~~On the state's~~ Idaho's central repository of criminal history records as established and maintained by the Idaho State Police under Title 67, Chapter 30, Idaho Code; or ()

ii. ~~On the~~ criminal history repository of other states in which the petitioner has resided since the last substantiated report of abuse, ~~abandonment, or neglect,~~ or abandonment in Idaho. ()

03. Criminal History Checks. It is the responsibility of the petitioner to request, pay for, and obtain these criminal history checks and submit them to the Department. (4-2-08)()

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

~~(1)~~**i.** Physical Assault; (4-2-08)

~~(2)~~**ii.** Battery; or (4-2-08)

~~(3)~~**iii.** A drug-related offense. (4-2-08)

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

~~(1)~~**i.** Child abuse or neglect; (4-2-08)

~~(2)~~**ii.** Spousal abuse; (4-2-08)

~~(3)~~**iii.** A crime against children, including child pornography; or (4-2-08)

~~(4)~~**iv.** A crime involving violence, including rape, sexual assault, or homicide, but not including other

physical assault or battery.

(4-2-08)

024. Granting or Denying ~~the~~ Petition for Removal From the Child Protection Central Registry.

The Department will issue a letter granting or denying removal of the petitioner's name from the Child Protection Central Registry within twenty-eight (28) days of receipt of the petition.

~~(4-2-08)~~(____)

035. Appeal of a Denial ~~for~~ Petition for of Removal From the Child Protection Central Registry.

The individual may ~~file an~~ appeal ~~from~~ the denial of removal of his name from the Child Protection Central Registry under IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings," Section 101.

~~(4-2-08)~~(____)

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

~~(4-2-08)~~

5657. "SAFE HAVEN" EXEMPTION FOR PARENTS OF CERTAIN ABANDONED INFANTS.

No disposition will be made on the parent(s) and no information will be entered into the Child Protection Central Registry when a parent(s) relinquishes their infant within the first thirty (30) days of life to a "Safe Haven" according to Title 39, Chapter 82, Idaho Code, Idaho Safe Haven Act.

(4-2-08)

5668. COURT-ORDERED CHILD PROTECTION RISK ASSESSMENT.

When, in any divorce proceeding or upon request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court may order that an investigation/risk assessment be conducted by the Department. Court orders for preliminary child protective risk assessment and for any subsequent assessment the court may deem necessary will be served on the Department supervisor for child protection services in the field office in which the court has geographical jurisdiction. The child protection supervisor must immediately initiate the risk assessment and consult with the court promptly if there are any obstacles proceeding its completion. Immediately upon completing the report, the Department must make a written report to the court.

(4-2-08)

5679. PETITION UNDER THE CHILD PROTECTIVE ACT.

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

~~(4-2-08)~~(____)

56870. COOPERATION WITH LAW ENFORCEMENT.

The Department will cooperate with law enforcement personnel in their handling of criminal investigations and the filing of criminal proceedings.

(4-2-08)

56971. CHILD CUSTODY INVESTIGATIONS FOR THE DISTRICT COURT.

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

(3-30-07)

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

(3-30-07)

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

worker for the purpose of making a report to the court. (3-30-07)

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

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

5702. -- 6399. (RESERVED).

~~CHILDREN'S MENTAL HEALTH SERVICES~~
~~(Sections 640—699)~~

~~640. CHILD MENTAL HEALTH SERVICES.~~

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

~~641. OUTCOMES.~~

~~**01. Outcomes.** Outcomes are measured through administration of a standardized assessment tool both before and after intervention. Major life areas such as school, community, mental status, family life are the focus of the assessment. (3-30-01)~~

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

~~**a.** Child lives at home; (3-30-01)~~

~~**b.** Child has positive peers; (3-30-01)~~

~~**c.** Child attends and participates regularly in school; (3-30-01)~~

~~**d.** Child manages psychiatric symptoms and is not a danger to self or others; and (3-30-01)~~

~~**e.** Child does not exhibit criminal behavior. (3-30-01)~~

~~642. ACCESS TO SERVICES.~~

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

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

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

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

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

~~643. **CHARGES TO PARENT(S) OR LEGAL GUARDIAN(S).** Parent(s) or legal guardian(s) of children with serious emotional disturbances who are receiving services either directly from the Department's Family and Children's Services program or through Department contracts with private providers, are responsible for paying for services provided to their child and to their family. The amount charged for each service shall be in accordance with the parent(s)' or legal guardian(s)' ability to pay as determined by a sliding fee scale. The amount charged for services when a child is living outside of his or her home, such as foster care, residential care or hospital shall be in accordance with the parent(s)' or legal guardian(s)' ability to pay as determined by a sliding scale (cost of care as compared with parent(s)' or legal guardian(s)' available income and consideration of indebtedness) applied by the Division of Welfare's Bureau of Child Support Services. (5-3-03)~~

~~644. **SLIDING SCALE FEE TABLE 644.** Sliding scale fee for services provided to a child in their home will be calculated using the following table. This sliding fee scale is based on the current Poverty Guidelines published in the Federal Register. Incomes below the five percent (5%) level are not to be charged.~~

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

ANNUAL HOUSEHOLD INCOME									
Family Size								each add'l person	% pay- child at home
1	2	3	4	5	6	7	8		
\$30,187	\$40,687	\$51,187	\$61,687	\$72,187	\$82,687	\$93,187	\$103,687	+\$10,500	90 %
\$32,200	\$43,400	\$54,600	\$65,800	\$77,000	\$88,200	\$99,400	\$110,600	+\$11,200	100 %

(3-30-01)

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

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

- 01. Ability to Pay.** Charges are based upon the number of dependents and family income. (3-18-99)
 - a.** An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible. (3-18-99)
 - b.** Redetermination of ability to pay will be made at least annually or upon request of the parent(s) or legal guardian(s) or at any time changes occur in family size, income or allowable deductions. (5-3-03)
 - c.** In determining the family's ability to pay for services, the Department shall deduct annualized amounts for: (3-18-99)
 - i.** Court ordered obligations; (3-18-99)
 - ii.** Dependent support; (3-18-99)
 - iii.** Child care payments necessary for parental or legal guardian(s) employment; (5-3-03)
 - iv.** Medical expenses; (3-18-99)
 - v.** Transportation; (3-18-99)
 - vi.** Extraordinary rehabilitative expenses; and (3-18-99)
 - vii.** State and federal tax payments, including FICA taxes. (3-18-99)
 - d.** Information regarding third party payors and other resources including Medicaid or private insurance must be identified and developed in order to fully determine the parent(s)' or legal guardian(s)' ability to pay and to maximize reimbursement for the cost of services provided. (5-3-03)
 - e.** It is the responsibility of the parent(s) or legal guardian(s) to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. (5-3-03)
- 02. Time of Payment.** Normally charges for services will be due upon delivery of the service unless other arrangements are made, such as for monthly billing. (3-18-99)
- 03. Charges.** Using the sliding fee scale in Section 644, an amount will be charged based on family size, resources, income, assets and allowable deductions, exclusive of third party liable sources, but in no case will the amount charged exceed the cost of the services. (3-30-01)
- 04. Established Fee.** The maximum hourly fees or flat fees charged for children's mental health services shall be established by the Department of Health and Welfare. The current charges are set out in Table 645.

Table 645—Hourly Charges for Children's Mental Health Services		
		Hourly Charge
a. Psychosocial Rehabilitation Services		
i.	Individual Psychosocial Rehabilitation	\$74
ii.	Group Psychosocial Rehabilitation	\$18
iii.	Rehabilitative Evaluation	\$74
iv.	Task Plan Development	\$74
v.	Community Crisis Support	\$74
vi.	Psychopharmacological Management	\$32
vii.	Psychological Test	\$63
viii.	Medical Report (new)	\$63
ix.	Medical Report (past record)	\$63
x.	Consultation/Collateral	\$63
xi.	Crisis Intervention (at Emergency Room)	\$74
xii.	Diagnostic Interview/Screening	\$63
b. Psychotherapy		
i.	Individual	\$63-\$83*
ii.	Group Psychotherapy	\$24
iii.	Family Psychotherapy	\$63-\$77*
		*M.D. rate

(3-30-01)

~~646.—699. (RESERVED).~~

ADOPTION SERVICES
 (Sections 700 -- 710)

700. ADOPTION SERVICES POLICY.

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

701. SERVICES TO BE PROVIDED IN ADOPTIONS.

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

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

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

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

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

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

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

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

08. Period of Support Supervision. Once a child is placed with an adoptive family, a period of support and supervision by the Department lasting at least six (6) months must be completed prior to the finalization of the adoption. If the child has been a foster child placed with the family for a period of at least six (6) months, the family may submit a written request to the Department's *Family and Children's and Family Services* Program Manager to reduce the supervisory period to a minimum of three (3) months. (~~3-30-07~~)(____)

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

702. SERVICES TO BE PROVIDED IN LEGAL GUARDIANSHIPS.

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

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

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

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

04. Eligibility for Guardianship Assistance. A determination of eligibility for guardianship

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

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

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

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

08. Retroactive Benefits. Legal guardians appointed on or before July 1, 2001, are not eligible for guardianship assistance. There will be no retroactive benefits paid by the Department for a child whose legal guardian(s) was appointed before July 1, 2001 or for guardians who did not negotiate a guardianship assistance agreement prior to the finalization of the guardianship. (5-3-03)

703. -- 709. (RESERVED).

710. FAMILY HISTORY.

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

- 01. Informational Forms.** Informational background forms regarding the birth mother, birth father, and the child. (3-18-99)
- 02. Hospital Records.** Hospital birth records on child. (3-18-99)
- 03. Evaluations/Assessments.** Evaluations/Assessments previously completed on child. (3-18-99)
- 04. Current Picture.** Current picture of child. (3-18-99)
- 05. Narrative Social History.** ~~Family and~~ Child's and family's narrative social history that addresses: ~~(3-18-99)(_____)~~
 - a.** Family dynamics and history; (3-18-99)
 - b.** Child's current functioning and behaviors; (3-18-99)
 - c.** Interests, talents, abilities, strengths; (3-18-99)
 - d.** Child's cultural and racial identity needs. The ability to meet the cultural and racial needs of the

- child does not necessitate a family have the same culture or race as the child; (3-18-99)
- e. Life story, moves, reasons, key people; (3-18-99)
 - f. Child's attachments to current caretakers, siblings and significant others; i.e., special friends, teachers, etc.; (3-18-99)
 - g. Medical, developmental and educational needs; (3-18-99)
 - h. Child's history, past experiences, and previous trauma; (3-18-99)
 - i. Indian child's membership or eligibility for membership in tribe(s); (3-18-99)
 - j. Membership or eligibility for membership in, and social and cultural contacts with, tribe(s) of parent(s), if any, including names and addresses of extended family and membership in tribe(s); (3-18-99)
 - k. Indian child's contacts with tribe(s); (3-18-99)
 - l. Individualized recommendations regarding each child's need for permanency; and (3-18-99)
 - m. Reasons for requesting termination of parental rights. (3-18-99)

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

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

~~01. Recommendation for Termination.~~ Any recommendation to the ~~Family and Children's~~ and Family Services Program Manager regarding the termination of parental rights ~~shall~~ will be based on the outcome of a team decision-making process and must receive written approval by the program manager before a petition may be filed. ~~(3-30-01)()~~

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

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

(BREAK IN CONTINUITY OF SECTIONS)

715. VOLUNTARY CONSENT.

In obtaining a parent's consent to terminate their parental rights through the Department, a Consent to Terminate Parental Rights and Waiver of Rights to Hearing ~~shall~~ must be signed before the Magistrate Judge. Once a parent's

consent has been given before the court, a corresponding petition under the Termination of Parent and Child Relationship Act *shall will* be filed by legal counsel representing the Department. (3-20-04)(____)

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

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

718. REPORT TO COURT -- VOLUNTARY TERMINATION.

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

719. INVESTIGATION.

An investigation of the allegations in the petition and a report recommending disposition of the petition under the Termination of Parent and Child Relationship Act *shall will* be completed and submitted to the court within thirty (30) days, unless an extension of time is granted by the court. The purpose of this investigation is to verify the allegations through all available sources, including the petitioner, parent(s) and possibly the extended family of the child. The Report to the Court under the Termination of Parent and Child Relationship Act, is to serve as an aid to the court in determining a disposition that complies with the Indian Child Welfare Act where applicable, or that will be in the best interest of the child. If a petition is filed by a party other than the Department, the court may order such an investigation by the Department. The law also allows completion of an investigation by an authorized agency or a certified adoption professional, prior to adjudication and disposition. If the Department is the petitioner, the report *shall will* accompany the petition. Reports submitted under the Termination of Parent and Child Relationship Act based on a parent's voluntary consent *shall will* include: (3-20-04)(____)

01. Description of Investigation. The circumstances of the petition and the facts determined from the investigation; and (3-18-99)

02. Child-Related Factors. Child related factors, including: (3-18-99)

a. Child's current functioning and behaviors; (3-18-99)

b. Medical, educational and developmental needs of the child; (3-18-99)

c. Child's history and past experiences; (3-18-99)

d. Child's identity needs; (3-18-99)

e. Child's interests and talents; (3-18-99)

f. Child's attachments to current caretakers and any absent parent; (3-18-99)

g. Child's current living situation; (3-18-99)

- h.** Indian child's membership or eligibility for membership in tribe(s); (3-18-99)
- i.** Indian child's contacts with tribe(s); (3-18-99)
- j.** The present circumstances, history, condition and desire of the parent whose rights are being terminated regarding plans for the child; (3-18-99)
- k.** Such other facts as may be pertinent to the parent and child relationship and this particular case; i.e., compliance with Interstate Compact Placement on Children; and (3-18-99)
- l.** A recommendation and reasons as to whether or not the termination of the parent and child relationship should be granted. (3-18-99)

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

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

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

721. REPORT TO THE COURT -- INVOLUNTARY TERMINATION.

If a petition for an involuntary termination of parental rights has been brought before the Magistrate Court, an investigation or report to the court under the Termination Act is required. If the petition has been filed by the Department a report is required ~~pursuant to~~ under Section 16-2008(b), Idaho Code. Reports submitted under the Termination Act based on an involuntary termination of parental rights ~~shall~~ must include: ~~(3-30-01)(_____)~~

- 01. Allegations.** The allegations contained in the petition. (3-30-01)
- 02. Investigation.** The process of the assessment and investigation. (3-30-01)
- 03. Family Circumstances.** The present condition of the child and parent(s), especially the circumstances of the parent(s) whose rights are being terminated and contact with the parent(s) of a minor parent, unless lack of contact is explained. (5-3-03)
- 04. Medical Information.** The information forms regarding the child, birth mother, and birth father ~~shall will~~ be submitted with the Report to the Court. Reasonably known or available medical and genetic information regarding both birth parents and source of such information, as well as reasonably known or available providers of medical care and services to the birth parents. ~~(3-30-01)(_____)~~

05. Efforts to Maintain Family. Other facts that pertain to the parent and child relationship including what reasonable efforts have been made to keep the child with the family. (3-30-01)

06. Absent Parent. Reasonable efforts made by the petitioner to locate an absent parent(s) and provision of notification to an unmarried father of the paternity registry requirement ~~pursuant to~~ under Section 16-1513, Idaho Code. ~~(3-20-04)(_____)~~

- 07. Planning.** Proposed plans for the child consistent with: (3-30-01)
 - a.** The Indian Child Welfare Act, including potential for placement with the Indian child's extended family, other members of the Indian child's tribe, or other Indian families; and (3-30-01)
 - b.** The Multi-Ethnic Placement Act and Interethnic Placement Act and regulations prohibiting states

from delaying or denying cross-jurisdictional adoptive placements with an approved family which ~~shall~~ **must** include individualized documentation regarding this child's needs in permanent placement. (~~3-30-01~~)(____)

08. Compliance with the Indian Child Welfare Act. Documentation of compliance with the Indian Child Welfare Act, including identification of whether the child is Indian and if so: (3-30-01)

a. Notification of the pending proceedings by registered mail with return receipt requested, to the parent(s) or Indian custodian(s) and the Indian child's tribe, or to the Secretary of the Interior if their identity or location cannot be determined; (5-3-03)

b. Notification of the right of the parent(s) or Indian custodian(s), and the Indian child's tribe, to intervene in the proceeding and their right to be granted up to twenty (20) additional days to prepare for the proceeding; (5-3-03)

c. Notification that if the court determines indigency, the parent(s) or Indian custodian(s) ~~shall~~ have the right to court-appointed counsel; (~~5-3-03~~)(____)

d. Evidence, including identity and qualifications of expert witnesses, that continued custody of the child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child; (5-3-03)

e. A recommendation and the reasons therefor as to whether or not termination of the parent and child relationship is in the best interest of the child; and (3-30-01)

f. Upon the court's written decision to terminate parental rights, two certified copies of the "Findings of Fact, Conclusions of Law and Decree" are to be placed in the child's permanent record. (3-30-01)

722. -- 749. (RESERVED).

BECOMING AN ADOPTIVE PARENT
(Sections 750 -- 850)

750. APPLICATION TO BE ADOPTIVE PARENT(S).

Each field office ~~shall be~~ **is** responsible for compiling the names and addresses of adoptive applicant(s), along with the dates of inquiry and membership in an Indian tribe, if any. A database or register must be maintained in order to assure the orderly completion of home studies. (~~5-3-03~~)(____)

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

02. Screening of Adoptive Applicants. Screening of the adoptive applicants will assist the agency or family services worker in assessing, on an individualized basis, the prospective adoptive parent(s)' suitability to care for a specific child, or general description of children through: (5-3-03)

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

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

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

d. The family's ability to accept the behavior and personality of a specific child or general description

of children; (3-18-99)

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

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

(BREAK IN CONTINUITY OF SECTIONS)

761. DENIAL OF APPLICATION.

Following an initial interview, an applicant who does not appear to meet the Department's requirements at the time of initial application may be denied a full home study. The family *shall will* be advised why they were ineligible for a full home study and provide notice to the applicant of their right to appeal this decision. Upon resolution of the factors leading to the denial, the applicant may again file an application and receive a home study. ~~(3-20-04)~~(____)

762. APPLICATION AND DATA COLLECTION COMPLETING THE ADOPTION HOME STUDY.

Following the initial interview, the application, medical forms, list of items to be verified and other pertinent information needed to complete the adoptive home study *shall will* be given to the prospective adoptive parent(s). ~~(3-20-04)~~(____)

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

02. Home Study of Applicant. A full home study must then be made to determine the ability of the applicant to meet the needs of children available for adoption, and the specific characteristics of children the applicant indicates would be most suitably placed in the home. For an Indian child, the study *shall will* also determine the prevailing social and cultural standards of the Indian community in which the parent(s) or extended family resides or maintains social and cultural ties. ~~(3-20-04)~~(____)

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

763. APPLICANT RESPONSIBILITIES.

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

764. PRE-PLACEMENT ADOPTIVE HOME STUDY.

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

765. -- 769. (RESERVED).

770. ADOPTIVE HOME STUDIES.

Pre-placement home studies for Department adoptions, independent, relative and step-parent adoptions must document the following: (3-30-07)

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

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

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

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

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

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

04. ~~Photograph.~~ A photograph of the adopting family. References. The applicant must provide at least three (3) satisfactory references, one (1) of which may be from a person related to the applicant. An applicant must provide additional references upon the request of the children's agency. (~~3-18-99~~)()

771. ANNUAL HOME STUDY UPDATE.

An adoptive home study must be updated on an annual basis. A current home study is defined as a home study completed within the previous twelve (12) months. ()

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

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

01. Indian Child. For an Indian child, absent good cause to the contrary, the following preferences for placement under the Indian Child Welfare Act ~~shall~~ must be followed: (~~3-18-99~~)()

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

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

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

800. PLACEMENT OF THE CHILD.

The field office ~~shall~~ must provide full confidential background information and discuss the child's history fully with

the prospective adoptive parent(s) prior to the placement. The disclosure of background information ~~shall~~ must be confirmed at the time of placement by a written statement from the family services worker to the prospective adoptive family which they will be asked to acknowledge and sign. A copy of this statement ~~shall~~ must be provided to the adoptive family and one (1) copy will be kept in the child's permanent record. The child's record ~~shall~~ will be reviewed by the placing region's Program Manager or designee prior to being forwarded to the supervising family services worker. The child's case record must be complete and transferred to the supervising family services worker at the time of placement. (3-20-04)(____)

(BREAK IN CONTINUITY OF SECTIONS)

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

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

(BREAK IN CONTINUITY OF SECTIONS)

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

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

834. -- 849. (RESERVED).

850. INDEPENDENT, RELATIVE AND STEPPARENT ADOPTIONS.

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

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

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

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

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

According to Section 16-1506, Idaho Code, an investigation regarding the allegations stated in the petition and subsequent written report of findings must be filed with the court unless the investigation is waived by order of the court. The prospective adoptive family's pre-placement home study will be filed at the same time as the written report of investigation. If the family services worker, licensed child placing agency staff, or certified adoption professional is unable to complete the study within thirty (30) days, an extension of time *shall must* be requested in writing of the court, stating the reasons for the request. If the worker suspects that the child is of Indian heritage and the child's tribe or the Secretary of the Interior has not been notified, the worker *shall must* inform the court and the petitioner's attorney and the independent agency of the need to comply with the Indian Child Welfare Act. This adoption report to the court *shall must* address the following: (3-20-04)(____)

01. Legal Availability of the Child. It is the responsibility of the petitioners, through their attorney, to present documentary evidence to the court so the judge can examine it and be satisfied that the identity, birthdate, and parentage of the child are as represented in the petition. The family services worker *shall will* interview the family and any other person(s) having knowledge in the matter, review all documentary evidence presented by the petitioner(s), record the information and source of the information, noting any discrepancies. Such documentary evidence *shall must* include ~~*but is not limited to*~~ the following: (3-20-04)(____)

- a. The birth certificate of the child; (3-20-04)
- b. The consent(s) of the child's parent(s) to terminate their parental rights, termination decrees for any parent(s) whose parental rights have been terminated involuntarily by the court, and documentation of marriage and divorce; (3-20-04)
- c. Indian child's parent(s) or Indian custodian(s), and tribe have received notice of their right to intervene; and (5-3-03)
- d. Consent to adoption has been secured for all persons from whom it is required, including a legal guardian(s), to make the child legally available for adoption. (3-20-04)
- e. The death certificate of a deceased parent; (3-20-04)
- f. Verification from the Bureau of Vital Statistics of the registry of any putative father; and (3-20-04)
- g. The Interstate Compact on the Placement of Children Form 100-A, for a child born outside of the state of Idaho, to determine if required state authorizations have been given, or if the Compact does not apply. (3-20-04)

02. Needs of the Child. The report to the court ~~shall~~ must address the needs of the child, including but ~~not limited to:~~ (3-20-04)(____)

- a. The history of the child and the child's birth family; (3-18-99)
- b. The family history for a child who has been previously adopted, should include information about the child's previous adoptive family and the circumstances of the disruption; (3-20-04)
- c. A detailed description of the circumstances that brought about the placement with the prospective adoptive family; (3-20-04)
- d. The state of Idaho Social, Medical, and Genetic History forms ~~shall~~ must be completed and submitted to the court, showing reasonably known or available medical and genetic information regarding both birth parents and the child, as well as reasonably known or available providers of medical care and services to birth parents and child; and (3-30-01)(____)
- e. The appropriateness of the prospective adoptive family for the particular child or children who are the subject of the petition. (3-20-04)

03. Degree of Relationship of the Child to Petitioners. In those cases where the court has ordered an investigation of petitions to adopt by relatives or step parents, the study ~~shall~~ must record such alleged relationship and specify the documentary evidence the petitioners have of that relationship. (3-30-01)(____)

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

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

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

07. Financial Accounting. A financial accounting must be approved by the court, of any financial assistance given to the birth parent(s) which exceeds five hundred dollars (\$500), in accordance ~~to~~ with Section 18-1511, Idaho Code. (3-20-04)(____)

864. -- 869. (RESERVED).

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

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

871. TEMPORARY REPLACEMENT AFTER DISRUPTION.

When a disruption occurs and it becomes necessary to remove a child from a prospective adoptive home, the field office where the child has been placed ~~shall be~~ is responsible for finding a temporary arrangement for the child until another permanent placement can be arranged. In the case of the adoption of an Indian child, the consent of the parent(s) may be withdrawn for any reason at any time prior to the entry of a final decree of adoption, and the child returned to the parent(s). (3-20-04)(____)

872. PREFERENCES FOR TEMPORARY PLACEMENT -- INDIAN CHILD.

Preferences for placement of an Indian child ~~shall~~ **must** be observed in the temporary and permanent placement unless the child is being returned to the parent(s) or Indian custodian(s) from whose custody the child was originally removed. (3-18-99)(____)

873. -- 879. (RESERVED).

880. APPLICATIONS FOR SUBSEQUENT ADOPTIONS.

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

01. Reapplication Process. Adoptive parent(s) who have experienced a successful adoption and wish to reapply ~~shall~~ **must** complete an adoption application and financial statement, and submit medical reports and ~~four~~ **three (43)** references. One (1) reference may be from a person related to the applicant. When requested by the Department, an applicant must provide additional references. (5-3-03)(____)

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

881. CLOSURE OF CASE.

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

882. RECORDS OF PLACEMENT.

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

883. POST-LEGAL ADOPTION SERVICES.

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

884. OPENING SEALED RECORDS OF ADOPTIONS.

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

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

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

885. -- 888. (RESERVED).

CERTIFIED ADOPTION PROFESSIONAL
(Sections 889 -- 899)

889. CERTIFIED ADOPTION PROFESSIONAL REQUIREMENTS.

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

01. College Degree. A minimum of a bachelor's degree in a field deemed related to adoptions by the Department's ~~Family and Children's~~ and Family Services Program, such as social work, psychology, family counseling or other related behavioral science; ~~and~~ (3-20-04)()

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

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

034. Designee of a Tribe. Individuals designated by the Indian child's tribe to perform these duties are not subject to the provisions in Subsections 889.01 and 889.02~~3~~ of this rule. (3-20-04)()

890. TERMS OF CERTIFICATION FOR ADOPTION PROFESSIONALS.

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

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

03. Lapse of Certification. If a certified adoption professional does not apply for recertification within four (4) years in accordance with Subsection 890.02 of this rule, this will result in a lapse of certification. Any lapse in certification will require completion of a new certified adoption professional application, documentation of twenty (20) hours of adoption training during the four (4) years previous to this new application, and a new criminal history and background check. ()

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

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

ii. A check of the Idaho Child Protection Central Registry; ()

iii. A check of the Idaho Adult Protection Registry; and ()

iv. A check of the Idaho Sexual Offender Registry. ()

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

034. Denial of Recertification. The Department may choose not to recertify a certified adoption professional. Notification of denial will be made by the Department by certified mail. The notice ~~shall~~ will state the specific grounds for denial of recertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." Grounds for denial of recertification are one (1) or more of the following: (3-20-04)()

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

b. Failure to gain twenty (20) additional hours of adoption continuing education required for recertification; or (3-30-01)

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

045. Decertification. A certified adoption professional can be decertified by the Department at any time during a four (4) year period of certification. Notification of decertification will be made by the Department by certified mail. The notice ~~shall will~~ state the specific grounds for decertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." Grounds for decertification are one (1) or more of the following: (~~3-20-04~~)(____)

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

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

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

d. A demonstrated pattern of failure to obtain Departmental review and approval of pre-placement homestudies and placement supervision reports. (3-20-04)

891. CERTIFIED ADOPTION PROFESSIONAL'S CLIENT RELATIONSHIP.

A certified adoption professional ~~shall may~~ not assume a legal relationship with any child for whom they have been contracted to perform services. (~~3-20-04~~)(____)

(BREAK IN CONTINUITY OF SECTIONS)

893. RECORDS OF THE CERTIFIED ADOPTION PROFESSIONAL.

Records of the pre-placement home studies, court reports, and supervisory reports provided by the certified adoption professional must be made available to the regional ~~Family and Children's and Family~~ Services program manager or designee one (1) week prior to the required court filing date. The regional designee will be responsible for monitoring of quality of the services provided. (~~3-20-04~~)(____)

894. FEES CHARGED BY THE DEPARTMENT.

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

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

(~~3-30-01~~)(____)

895. DEPARTMENT RESPONSIBILITY TO CERTIFIED ADOPTION PROFESSIONAL.

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

896. -- 899. (RESERVED).

ADOPTION ASSISTANCE
(Sections 900 -- 999)

900. ADOPTION ASSISTANCE.

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

(3-30-07)

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

(~~3-30-07~~)()

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

(~~5-3-03~~)()

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

(~~5-3-03~~)()

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

(~~5-3-03~~)()

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

(5-3-03)

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

(5-3-03)

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

(5-3-03)

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

(5-3-03)

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

(5-3-03)

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

(5-3-03)

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

(5-3-03)

i. The child's parent is in foster care and receiving Title IV-E foster care maintenance payments that

cover both the minor parent and child at the time the adoption petition is filed; and (5-3-03)

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

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

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

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

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

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

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

a. The child cannot or should not be returned to the home of the parents as evidenced by an order from a court of competent jurisdiction terminating parents rights or an Abandonment Certificate or its equivalent issued by a governmental entity either domestic or foreign; and ~~(3-18-99)~~()

b. The child has a physical, mental, emotional, or medical disability, or is at risk of developing such disability based on known information regarding the birth family and child's history, or (3-18-99)

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

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

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

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

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

(BREAK IN CONTINUITY OF SECTIONS)

911. ADOPTION ASSISTANCE PROGRAM AGREEMENT.

A written agreement *shall* must be negotiated and fully executed between the Department and adopting family prior

to the finalization of adoption and implementation of benefits. ~~(3-18-99)~~()

01. Agreement Specifications. The agreement ~~shall specify~~ specifies the following: ()

a. ~~The~~ type and amount of assistance to be provided; ~~and~~ ()

b. That there will be an annual review of each agreement by the Department to evaluate the need for continued subsidy and the amount of the subsidy; ()

c. ~~That~~ the agreed upon type and amount of assistance may be adjusted periodically only with the concurrence of the adoptive parent(s) to reflect changing based upon changes in the needs of the child or changes in the circumstances of the adoptive family; the date for annual renewals and that the renewal depends on ()

d. That assistance is subject to the continuing availability of funds; and that payments shall begin after the final certified copy of the Order of Adoption is received by the Department. ()

e. ~~That~~ The adoptive parent(s) are required to inform the ~~state agency~~ Department of any circumstances which would make them ineligible for adoption assistance payments, or eligible for adoption assistance payments in a different amount. ~~(5-3-03)~~()

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

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

912. -- 919. (RESERVED).

920. REQUEST FOR RECONSIDERATION FOR ADOPTION ASSISTANCE.

Families who adopted a child, or children with special needs on or after April 1, 1982, through either the Department or a licensed Idaho children's adoption agency may be eligible for benefits through the Adoption Assistance program. Persons who adopted their relative children, may also be eligible for these adoption assistance benefits. Per Public Law 96-272, the adoptive family must sign an adoption assistance agreement prior to the finalization of the adoption in order for the child to receive benefits. Adoptive families who were not informed of these benefits or who were wrongly denied these benefits may submit an application to the Department prior to the eighteenth birthday of the adopted child for a determination of eligibility for these benefits. The Division of Family and Community Services ~~shall~~ determines eligibility based on the eligibility factors determining a special needs child that were in effect at the time of the child's adoption. If the IV-E eligibility determination finds that a child was eligible for these benefits at the time of the child's adoption, and an agreement was not signed prior to the finalization, the Department is required to deny benefits to the child, since no contract was in effect at the time of the adoption finalization. The adoptive family may request a fair hearing for adoption assistance IV-E eligibility determination. The determinations to be made at this hearing are whether extenuating circumstances exist and/or whether the family was wrongly denied eligibility. The Division of Family and Community Services may not change its eligibility determination for a child eligible for IV-E adoption assistance benefits and provide adoption assistance based on extenuating circumstances without obtaining a favorable ruling from a fair hearing officer. ~~(3-18-99)~~()