

Dear Senators HEIDER, Nuxoll, Schmidt, and
Representatives WOOD, Packer, Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Health and Welfare:

IDAPA 16.06.01 - Child and Family Services - Proposed Rule (Docket No. 16-0601-1601).

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 10/21/2016. 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 11/18/2016.

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 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Senior Legislative Research Analyst - Elizabeth Bowen

DATE: October 03, 2016

SUBJECT: Department of Health and Welfare

IDAPA 16.06.01 - Child and Family Services - Proposed Rule (Docket No. 16-0601-1601)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.06.01. The purpose of the proposed rule is to conform existing rules to federal and state law by lowering the age at which foster youth may qualify for independent living services from 90 days after their fifteenth birthday to 90 days after their fourteenth birthday.

Negotiated rulemaking was not conducted due to the nature of the rule change. There is no negative fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to numerous sections of the Idaho Code, including Section 56-1004, which specifically authorizes rulemaking relating to Department business.

cc: Department of Health and Welfare
Beverly Barr and Frank Powell

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.01 - CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-1601

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, 56-1004A, and 56-1007, Idaho Code; 42 USC 675 as amended by Public Law 113-183; and Sections 16-1621 and 16-1622, Idaho Code, amended under Senate Bill 1328 (2016).

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Wednesday, September 21, 2016 - 3:00 pm (MDT)

**Len B. Jordan Building
650 W. State Street
Basement Conference Room B-35
Boise, ID**

Via Teleconference Call-In

**Toll Free: 1-877-820-7831
Participant Code: 174419**

The hearing site 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:

These rule changes lower the age at which foster youth may begin receiving independent living services funded by the John H. Chafee Foster Care Independence Program. These services help foster youth develop life skills and prepare them for their transition out of foster care. These rule changes will give them earlier access to independent living services and thereby increase their access to life skills training and better prepare them for successful and productive adulthood. Recent changes in federal law (42 U.S.C. 675 as amended by Public Law 113-183) and also subsequent changes to Idaho state law by the 2016 legislature (Sections 16-1621 and 16-1622, Idaho Code) have enabled the Department to make these changes in rule and practice.

Specifically, these proposed rule changes lower the age at which foster youth are eligible to receive independent living services funded by the Chafee Program from 90 days after their 15th birthday to 90 days after their 14th birthday.

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

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

This rulemaking has no fiscal impact to the state general fund or any other funds as all funding related to these rule changes is federal. The John H. Chafee Foster Care Independence Program funds are capped and Idaho receives the minimum, \$500,000, each year. This rule will simply make these funds available to a larger population of foster youth.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was deemed not feasible as these rule changes simply serve to bring independent living services to foster youth at an earlier age and align the rules with recent changes to enabling legislation in state and federal law.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Michelle Weir at (208) 334-5651.

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 September 28, 2016.

DATED this 5th Day of August, 2016.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone / (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0601-1601
(Only Those Sections With Amendments Are Shown.)

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.

For the purposes of these rules, the following terms are used: (5-8-09)

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 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)

03. Family Case Record. Electronic and hard copy compilation of all documentation relating to a family, including legal documents, identifying information, and evaluations. (5-8-09)

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

05. Family Services Worker. Any of the direct service personnel, including social workers, working in regional Child and Family Services Programs. (5-8-09)

06. Federally-Funded Guardianship Assistance for Relatives. Benefits described in Subsection 702.04 and Section 703 of these rules provided to a relative guardian for the support of a child who is fourteen (14)

years of age or older, who, without guardianship assistance, would remain in the legal custody of the Department of Health and Welfare. (4-7-11)

- 07. **Field Office.** A Department of Health and Welfare service delivery site. (3-18-99)
- 08. **Goal.** A statement of the long term outcome or plan for the child and family. (3-18-99)
- 09. **Independent Living.** Services provided to eligible foster or former foster youth, ages ~~fifteen (15)~~ ~~fourteen (14)~~ to twenty-one (21), designed to support a successful transition to adulthood. ~~(3-30-01)~~()
- 10. **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)
- 11. **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 (3-29-12)
 - b. Eligible for membership in an Indian tribe, and who is the biological child of a member of an Indian tribe. (3-29-12)
- 12. **Indian Child Welfare Act (ICWA).** The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-18-99)
- 13. **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)
- 14. **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)
- 15. **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)
- 16. **Interethnic Adoption Provisions of 1996 (IEP).** IEP 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. (4-7-11)
- 17. **Interstate Compact on the Placement of Children (ICPC).** Interstate Compact on the Placement of Children (ICPC) in Title 16, Chapter 21, Idaho Code, ensures that the jurisdictional, administrative, and human rights obligations of interstate placement or transfers of children are protected. (3-20-04)
- 18. **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)

(BREAK IN CONTINUITY OF SECTIONS)

030. CORE CHILD AND FAMILY SERVICES.

The following core services are the state and federally mandated services provided by or through regional Child and Family Services offices: (5-8-09)

01. Crisis Services. Crisis Services are an immediate response to ensure safety when a child is believed to be in imminent danger as a result of child abuse, neglect, or abandonment. Crisis services require immediate access to services, twenty-four (24) hours per day, seven (7) days per week to assess safety and place in alternate care, if necessary, to ensure safety for the child. (4-7-11)

02. 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. When eligibility criteria is not met for Department mandated services, appropriate community referrals are made. (5-8-09)

03. 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 by the worker, together with the family and other interested parties. Each plan must have a long-term goal that identifies behaviorally-specific and measurable desired results and has specific tasks that identify who, how, and when the tasks will be completed. (4-7-11)

04. Preventative Services. Community-based services which support children and families and are designed to reduce the risk of child abuse, neglect, 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. (5-8-09)

05. Court-Ordered Services. These services primarily involve court-ordered investigations or assessments of situations where children are believed to be at risk due to child abuse, neglect, or abandonment. (5-8-09)

06. Alternate Care (Placement) Services. Temporary living arrangements outside of the family home for children and youth who are victims of child abuse, neglect, or abandonment. 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 or approved by an Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty-five (25) children. Payments may be made to individuals or to a public or private child placement or child care agency. (3-29-12)

07. Community 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 respite care and family preservation. (5-8-09)

08. Interstate Compact on Out-of-State Placements. Where necessary to encourage all possible positive contacts with family, including extended family, placement with family members or others who are outside the state of Idaho will be considered. On very rare occasion the Department may contract with a residential facility out of state if it best serves the needs of the child and is at a comparable cost to facilities within Idaho. When out-of-state placement is considered in the permanency planning for a child, such placement will be coordinated with the respective interstate compact administrator according to the provisions of Section 16-2101, et seq., Idaho Code, the "Interstate Compact on the Placement of Children." Placements must be in compliance with all state and federal laws. (5-8-09)

09. Independent Living. Services, including assessment and planning, provided to eligible youth to promote self-reliance and successful transition to adulthood. (5-8-09)

a. Eligibility Requirements for Current Foster Youth. To be eligible for independent living services, a current foster youth must: (5-8-09)

i. Be ~~fifteen (15)~~ **fourteen (14)** to nineteen (19) years of age; ~~(5-8-09)~~ ()

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 (5-8-09)

iii. Have been in foster care or similar eligible setting for a minimum of ninety (90) total days. (5-8-09)

b. Eligibility Requirements for Former Foster Youth. To be eligible for independent living services, a former foster youth must: (5-8-09)

i. Be a former foster youth who is currently under twenty-one (21) years of age; and (5-8-09)

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 (5-8-09)

iii. Have been placed in foster care or similar eligible setting for a minimum of ninety (90) days total after reaching ~~fifteen (15)~~ fourteen (14) years of age; or ~~(5-8-09)~~ ()

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. (5-8-09)

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. (5-8-09)

10. Adoption Services. Department services designed to promote and support the permanency of children with special needs through adoption. This involves the legal and permanent transfer of 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)

11. 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: (5-8-09)

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

b. Daycare licensing; (3-30-01)

c. Community development; and (5-8-09)

d. Contract development and monitoring. (5-8-09)

NOTE: This is the public law that amended 42 USC 675.

[113th Congress Public Law 183]
[From the U.S. Government Printing Office]

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Public Law 113-183
113th Congress

An Act

To prevent and address sex trafficking of children in foster care, to extend and improve adoption incentives, and to improve international child support recovery. <<NOTE: Sept. 29, 2014 - [H.R. 4980]>>

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, <<NOTE: Preventing Sex Trafficking and Strengthening Families Act.>>

SECTION 1. <<NOTE: 42 USC 1305 note.>> SHORT TITLE.

This Act may be cited as the ``Preventing Sex Trafficking and Strengthening Families Act''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.

TITLE I--PROTECTING CHILDREN AND YOUTH AT RISK OF SEX TRAFFICKING

Subtitle A--Identifying and Protecting Children and Youth at Risk of Sex Trafficking

- Sec. 101. Identifying, documenting, and determining services for children and youth at risk of sex trafficking.
- Sec. 102. Reporting instances of sex trafficking.
- Sec. 103. Including sex trafficking data in the Adoption and Foster Care Analysis and Reporting System.
- Sec. 104. Locating and responding to children who run away from foster care.
- Sec. 105. Increasing information on children in foster care to prevent sex trafficking.

Subtitle B--Improving Opportunities for Children in Foster Care and Supporting Permanency

- Sec. 111. Supporting normalcy for children in foster care.
- Sec. 112. Improving another planned permanent living arrangement as a permanency option.
- Sec. 113. Empowering foster children age 14 and older in the development

of their own case plan and transition planning for a successful adulthood.

- Sec. 114. Ensuring foster children have a birth certificate, Social Security card, health insurance information, medical records, and a driver's license or equivalent State-issued identification card.
- Sec. 115. Information on children in foster care in annual reports using AFCARS data; consultation.

Subtitle C--National Advisory Committee

- Sec. 121. Establishment of a national advisory committee on the sex trafficking of children and youth in the United States.

TITLE II--IMPROVING ADOPTION INCENTIVES AND EXTENDING FAMILY CONNECTION GRANTS

Subtitle A--Improving Adoption Incentive Payments

- Sec. 201. Extension of program through fiscal year 2016.

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- Sec. 202. Improvements to award structure.
- Sec. 203. Renaming of program.
- Sec. 204. Limitation on use of incentive payments.
- Sec. 205. Increase in period for which incentive payments are available for expenditure.
- Sec. 206. State report on calculation and use of savings resulting from the phase-out of eligibility requirements for adoption assistance; requirement to spend 30 percent of savings on certain services.
- Sec. 207. Preservation of eligibility for kinship guardianship assistance payments with a successor guardian.
- Sec. 208. Data collection on adoption and legal guardianship disruption and dissolution.
- Sec. 209. Encouraging the placement of children in foster care with siblings.
- Sec. 210. Effective dates.

Subtitle B--Extending the Family Connection Grant Program

- Sec. 221. Extension of family connection grant program.

TITLE III--IMPROVING INTERNATIONAL CHILD SUPPORT RECOVERY

- Sec. 301. Amendments to ensure access to child support services for international child support cases.
- Sec. 302. Child support enforcement programs for Indian tribes.
- Sec. 303. Sense of the Congress regarding offering of voluntary parenting time arrangements.
- Sec. 304. Data exchange standardization for improved interoperability.
- Sec. 305. Report to Congress.
- Sec. 306. Required electronic processing of income withholding.

TITLE IV--BUDGETARY EFFECTS

Sec. 401. Determination of budgetary effects.

SEC. 3. REFERENCES.

Except as otherwise expressly provided in this Act, wherever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the amendment shall be considered to be made to a section or other provision of the Social Security Act.

SEC. 113. EMPOWERING FOSTER CHILDREN AGE 14 AND OLDER IN THE DEVELOPMENT OF THEIR OWN CASE PLAN AND TRANSITION PLANNING FOR A SUCCESSFUL ADULTHOOD.

(a) In General.--Section 475(1)(B) (42 U.S.C. 675(1)(B)) is amended by adding at the end the following: ``With respect to a child who has attained 14 years of age, the plan developed for the child in accordance with this paragraph, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with up to 2 members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child. A State may reject an individual selected by a child to be a member of the case planning team at any time if the State has good cause to believe that the individual would not act in the best interests of the child. One individual selected by a child to be a member of the child's case planning team may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.'`.

(b) Conforming Amendments To Include Children 14 and Older in Transition Planning.--Section 475 (42 U.S.C. 675) is amended--

(1) in paragraph (1)(D), by striking ``Where appropriate, for a child age 16'' and inserting ``For a child who has attained 14 years of age''; and

(2) in paragraph (5)--

(A) in subparagraph (C)--

(i) in clause (i), by striking ``16'' and inserting ``14'';

(ii) by striking ``and'' at the end of clause (ii); and

(iii) by adding at the end the following:

``and (iv) if a child has attained 14 years of age, the permanency plan developed for the child, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with

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not more than 2 members of the permanency planning team who are selected by the child and who are not a foster parent of, or caseworker for, the child, except that the State may reject an individual so selected by the child if the State has good cause to believe that the individual would not act in the best interests of the child, and 1 individual

so selected by the child may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent standard to the child;''; and

(B) in subparagraph (I), by striking ``16'' and inserting ``14''.

(c) Transition Planning for a Successful Adulthood.--Paragraphs (1)(D), (5)(C)(i), and (5)(C)(iii) of section 475 (42 U.S.C. 675) are each amended by striking ``independent living'' and inserting ``a successful adulthood''.

(d) List of Rights.--Section 475A, as added by section 112(b)(1) of this Act, <<NOTE: Ante, p. 1926.>> is amended by adding at the end the following:

``(b) List of Rights.--The case plan for any child in foster care under the responsibility of the State who has attained 14 years of age shall include--

``(1) a document that describes the rights of the child with respect to education, health, visitation, and court participation, the right to be provided with the documents specified in section 475(5)(I) in accordance with that section, and the right to stay safe and avoid exploitation; and

``(2) a signed acknowledgment by the child that the child has been provided with a copy of the document and that the rights contained in the document have been explained to the child in an age-appropriate way.''.

(e) Report.--Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress regarding the implementation of the amendments made by this section. The report shall include--

(1) an analysis of how States are administering the requirements of paragraphs (1)(B) and (5)(C) of section 475 of the Social Security Act, as amended by subsections (a) and (b) of this section, that a child in foster care who has attained 14 years of age be permitted to select up to 2 members of the case planning team or permanency planning team for the child from individuals who are not a foster parent of, or caseworker for, the child; and

(2) a description of best practices of States with respect to the administration of the requirements.

(f) <<NOTE: 42 USC 675 note.>> Effective Date.--

(1) In general.--The amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act.

(2) <<NOTE: Determination.>> Delay permitted if state legislation required.--If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan developed pursuant to part E of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by this section, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the

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1st calendar quarter beginning after the 1st regular session of the State legislature that begins after the date of the enactment of this Act. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

Compilation of the Social Security Laws



DEFINITIONS

SEC. 475. [42 U.S.C. 675] As used in this part or part B of this title:

(1) The term “case plan” means a written document which meets the requirements of section 475A and^[255] includes at least the following:

(A) A description of the type of home or institution in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the child plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child in accordance with section 472(a)(1).

(B) A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents’ home, facilitate return of the child to his own safe home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

(C) The health and education records of the child, including the most recent information available regarding—

(i) the names and addresses of the child’s health and educational providers;

(ii) the child’s grade level performance;

(iii) the child’s school record;

(iv) a record of the child’s immunizations;

(v) the child’s known medical problems;

(vi) the child’s medications; and

(vii) any other relevant health and education information concerning the child determined to be appropriate by the State agency.

(D) For a child who has attained 14 years of age^[256] or over, a written description of the programs and services which will help such child prepare for the transition from foster care to a successful adulthood.^[257]

(E) In the case of a child with respect to whom the permanency plan is adoption or placement in another permanent home, documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangement for the child, to place the child with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-State and interstate placements.

(F) In the case of a child with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under section 473(d), a description of—

(i) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;

(ii) the reasons for any separation of siblings during placement;

(iii) the reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the child's best interests;

(iv) the ways in which the child meets the eligibility requirements for a kinship guardianship assistance payment;

(v) the efforts the agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefor; and

(vi) the efforts made by the State agency to discuss with the child's parent or parents the kinship guardianship assistance arrangement, or the reasons why the efforts were not made.

(G) A plan for ensuring the educational stability of the child while in foster care, including—

(i) assurances that each placement^[258] of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

(ii)(I) an assurance that the State agency has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the child remains in the school in which the child is enrolled at the time of each^[259] placement; or

(II) if remaining in such school is not in the best interests of the child, assurances by the State agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

(2) The term “parents” means biological or adoptive parents or legal guardians, as determined by applicable State law.

(3) The term “adoption assistance agreement” means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the nature and amount of any payments, services, and assistance to be provided under such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

(4)(A) The term “foster care maintenance payments” means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to a child, reasonable travel to the child’s home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence

(B) In cases where—

(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

(ii) payments described in subparagraph (A) are being made under this part with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter. With respect to a child who has attained 14 years of age, the plan developed for the child in accordance with this paragraph, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with up to 2 members of the case planning team who are chosen by the child and who are not a foster parent of, or caseworker for, the child. A State may reject an individual selected by a child to be a member of the case planning team at any time if the State has good cause to believe that the individual would not act in the best interests of the child. One individual selected by a child to be a member of the child's case planning team may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent parent standard to the child.^[260]

(5) The term “case review system” means a procedure for assuring that—

(A) each child has a case plan designed to achieve placement in a safe setting that is the least restrictive (most family like) and most appropriate setting available and in close proximity to the parents’ home, consistent with the best interest and special needs of the child, which—

(i) if the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parents of the child, or in a State different from the State in which such home is located, sets forth the reasons why such placement is in the best interests of the child, and

(ii) if the child has been placed in foster care outside the State in which the home of the parents of the child is located, requires that, periodically, but not less frequently than every 6 months, a caseworker on the staff of the State agency of the State in which the home of the parents of the child is located, of the State in which the child has been placed, or of a private agency under contract with either such State, visit such child in such home or institution and submit a report on such visit to the State agency of the State in which the home of the parents of the child is located,

(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph

(6)) in order to determine the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship, and, for a child for whom another planned permanent living arrangement has been determined as the permanency plan, the steps the State agency is taking to ensure the child's foster family home or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities);^[261]

(C) with respect to each such child,

(i) procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a permanency hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than 12 months after the date the child is considered to have entered foster care (as determined under subparagraph (F)) (and not less frequently than every 12 months thereafter during the continuation of foster care), which hearing shall determine the permanency plan for the child that includes whether, and if applicable when, the child will be returned to the parent, placed for adoption and the State will file a petition for termination of parental rights, or referred for legal guardianship, or only in the case of a child who has attained 14 years of age^[262] (in cases where the State agency has documented to the State court a compelling reason for determining, as of the date of the hearing,^[263] that it would not be in the best interests of the child to return home, be referred for termination of parental rights, or be placed for adoption, with a fit and willing relative, or with a legal guardian) placed in another planned permanent living arrangement, subject to section 475A(a),^[264] in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options, and, in the case of a child described in subparagraph (A)(ii), the hearing

shall determine whether the out-of-State placement continues to be appropriate and in the best interests of the child, and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to a successful adulthood;^[265]

(ii) procedural safeguards shall be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents;

(iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to a successful adulthood,^[266] the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child; and

(iv) if a child has attained 14 years of age, the permanency plan developed for the child, and any revision or addition to the plan, shall be developed in consultation with the child and, at the option of the child, with not more than 2 members of the permanency planning team who are selected by the child and who are not a foster parent of, or caseworker for, the child, except that the State may reject an individual so selected by the child if the State has good cause to believe that the individual would not act in the best interests of the child, and 1 individual so selected by the child may be designated to be the child's advisor and, as necessary, advocate, with respect to the application of the reasonable and prudent standard to the child;^[267]

(D) a child's health and education record (as described in paragraph (1)(A)) is reviewed and updated, and a copy of the record is supplied to the foster parent or foster care provider with whom the child is placed, at the time of each placement of the child in foster care, and is supplied at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under the State law;

(E) in the case of a child who has been in foster care under the responsibility of the State for 15 of the most recent 22 months, or, if a court of competent jurisdiction has determined a child to be an abandoned infant (as defined under State law) or has made a determination that the parent has committed murder of another child of the parent, committed voluntary manslaughter of another child of the parent, aided or abetted,

attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent, the State shall file a petition to terminate the parental rights of the child's parents (or, if such a petition has been filed by another party, seek to be joined as a party to the petition), and, concurrently, to identify, recruit, process, and approve a qualified family for an adoption, unless—

(i) at the option of the State, the child is being cared for by a relative;

(ii) a State agency has documented in the case plan (which shall be available for court review) a compelling reason for determining that filing such a petition would not be in the best interests of the child; or

(iii) the State has not provided to the family of the child, consistent with the time period in the State case plan, such services as the State deems necessary for the safe return of the child to the child's home, if reasonable efforts of the type described in section 471(a)(15)(B)(ii) are required to be made with respect to the child;

(F) a child shall be considered to have entered foster care on the earlier of—

(i) the date of the first judicial finding that the child has been subjected to child abuse or neglect; or

(ii) the date that is 60 days after the date on which the child is removed from the home;

(G) the foster parents (if any) of a child and any preadoptive parent or relative providing care for the child are provided with notice of, and a right to be heard in, any proceeding to be held with respect to the child, except that this subparagraph shall not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to such a proceeding solely on the basis of such notice and right to be heard; ^[268]

(H) during the 90-day period immediately prior to the date on which the child will attain 18 years of age, or such greater age as the State may elect under paragraph (8)(B)(iii), whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under section 477, a caseworker on the staff of the State agency, and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is

personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, includes information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, and provides the child with the option to execute a health care power of attorney, health care proxy, or other similar document recognized under State law, and is as detailed as the child may elect; and^[269]

(1)^[270] each child in foster care under the responsibility of the State who has attained 14^[271] years of age receives without cost a copy of any consumer report (as defined in section 603(d) of the Fair Credit Reporting Act) pertaining to the child each year until the child is discharged from care, receives assistance (including, when feasible, from any court-appointed advocate for the child) in interpreting and resolving any inaccuracies in the report and, if the child is leaving foster care by reason of having attained 18 years of age or such greater age as the State has elected under paragraph (8), unless the child has been in foster care for less than 6 months, is not discharged from care without being provided with (if the child is eligible to receive such document) an official or certified copy of the United States birth certificate of the child, a social security card issued by the Commissioner of Social Security, health insurance information, a copy of the child's medical records, and a driver's license or identification card issued by a State in accordance with the requirements of section 202 of the REAL ID Act of 2005.^[272]

(6) The term “administrative review” means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

(7) The term “legal guardianship” means a judicially created relationship between child and 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 decisionmaking. The term “legal guardian” means the caretaker in such a relationship.

(8)(A) Subject to subparagraph (B), the term “child” means an individual who has not attained 18 years of age.

(B) At the option of a State, the term shall include an individual—

(i)(I) who is in foster care under the responsibility of the State;

(II) with respect to whom an adoption assistance agreement is in effect under section 473 if the child had attained 16 years of age before the agreement became effective; or

(III) with respect to whom a kinship guardianship assistance agreement is in effect under section 473(d) if the child had attained 16 years of age before the agreement became effective;

(ii) who has attained 18 years of age;

(iii) who has not attained 19, 20, or 21 years of age, as the State may elect; and

(iv) who is—

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

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

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

(IV) employed for at least 80 hours per month; or

(V) incapable of doing any of the activities described in subclauses (I) through (IV) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

(9) The term “sex trafficking victim” means a victim of--

(A) sex trafficking (as defined in section 103(10) of the Trafficking Victims Protection Act of 2000); or

(B) a severe form of trafficking in persons described in section 103(9)(A) of such Act.^[273]

(10) (A) The term “reasonable and prudent parent standard” means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental

growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities.

(B) For purposes of subparagraph (A), the term “caregiver” means a foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed.^[274]

(11)

(A) The term ‘age or developmentally-appropriate’ means--

(i) activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(ii) in the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.

(B) In the event that any age-related activities have implications relative to the academic curriculum of a child, nothing in this part or part B shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State or local educational agency, or the specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction of a school.^[275]

(12) The term ‘sibling’ means an individual who satisfies at least one of the following conditions with respect to a child:

(A) The individual is considered by State law to be a sibling of the child.

(B) The individual would have been considered a sibling of the child under State law but for a termination or other disruption of parental rights, such as the death of a parent^[276].

^[255] P.L. 113-183, §112, added “which meets the requirements of section 475A and” effective September 29, 2014.

^[256] P.L. 113-183, §113, changed text to read “For a child who has attained 14 years of age.” effective September 29, 2014.

^[257] P.L. 113-183, §113, struck out “independent living” and inserted “a successful adulthood” effective September 29, 2014.

^[258] P.L. 112-34, §106(a)(1), struck out “the placement” and inserted “each placement”. For the general effective date [October 1, 2011] and the delay permitted if State legislation is required, see Vol. II, P.L. 112-34, §107.

^[259] P.L. 112-34, §106(a)(2), inserted “each”. For the general effective date [October 1, 2011] and the delay permitted if State legislation is required, see Vol. II, P.L. 112-34, §107.

^[260] P.L. 113-183, §113, added text following “such son or daughter.” effective September 29, 2014.

^[261] P.L. 113–183, §112, inserted text following “adoption or legal guardianship” effective September 29, 2014.

^[262] P.L. 113-183, Section 111, amended to add “only in the case of a child who has attained 16 years of age”; Section 112, changed “attained 16” to “attained 14” effective September 29, 2014.

^[263] P.L. 113–183, §112, inserted “as of the date of the hearing” effective September 29, 2014.

^[264] P.L. 113–183, §112, inserted “subject to section 475A(a)” effective September 29, 2014.

^[265] P.L. 113-183, §113, struck out “independent living” and inserted “a successful adulthood” effective September 29, 2014.

^[266] P.L. 113-183, §113, struck out “independent living” and inserted “a successful adulthood” effective September 29, 2014.

^[267] P.L. 113–183, §113, added clause (iv) effective September 29, 2014.

^[268] P.L. 112-34, §106(b)(1), struck out “and”.

^[269] P.L. 112-34, §106(b)(2), struck out the period and inserted “; and”.

^[270] P.L. 112-34, §106(b)(3), added this new subparagraph (l). For the general effective date [October 1, 2011] and the delay permitted if State legislation is required, see Vol. II, P.L. 112-34, §107.

^[271] P.L. 113-183, §113, changed text to read “attained 14” effective September 29, 2014.

^[272] P.L. 113-183, §114 added text following “inaccuracies in the report” effective September 29, 2014.

^[273] P.L. 113–183, §102, added this new subparagraph (9). Effective date September 29, 2014.

^[274] P.L. 113–183, §102, added this new subparagraph (10). Effective date September 29, 2014.

^[275] P.L. 113–183, §102, added this new subparagraph (11). Effective date September 29, 2014.

^[276] P.L. 113–183, §209, added this new subparagraph (12). Effective date September 29, 2014.