

Dear Senators VANORDEN, Wintrow, and
Representatives VANDER WOUDE, Erickson, Rubel:

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

IDAPA 16.04.18 - Children's Agencies and Residential Licensing - Temporary and Proposed Rule
(Docket No. 16-0418-2401).

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 08/07/2024. 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 09/04/2024.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
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: Legislative Drafter - Kyle Slominski
DATE: July 22, 2024
SUBJECT: Department of Health and Welfare

IDAPA 16.04.18 - Children's Agencies and Residential Licensing - Temporary and Proposed Rule (Docket No. 16-0418-2401)

Summary and Stated Reasons for the Rule

This temporary and proposed rule updates children's agencies requirements for foster homes to correspond with the updates to 16.06.02, Foster Care Licensing, proposed at Docket Nos. 16-0602-2401 and 16-0602-2402. The Governor finds the temporary rule is justified as changes are needed to the current child welfare system to protect public health, safety, and welfare and to increase the number and types of foster home available.

Negotiated Rulemaking / Fiscal Impact

The agency states that negotiated rulemaking was not conducted due to the shortage of foster homes necessitating urgent action. The agency notes that the major substantive changes to the rules are part of a national model act developed in partnership with many organizations and were reviewed as part of that process. The agency notes that no negative fiscal impact is anticipated.

Statutory Authority

This rulemaking appears to be authorized pursuant to sections 39-1209, 39-1210, 39-1213, 56-1003, 56-1004A, and 56-1005, Idaho Code.

cc: Department of Health and Welfare
Adam Jones
Jared Larsen

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.04.18 – CHILDREN’S AGENCIES AND RESIDENTIAL LICENSING
DOCKET NO. 16-0418-2401
NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2024.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. This rule chapter is promulgated pursuant to Sections 39-1207, 39-1208, 39-1209, 39-1210, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code.

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 July 17, 2024.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Because of the updates to 16.06.02, Foster Care Licensing, this rule makes corresponding changes to the children’s agencies requirements for foster homes.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

OPE and the Child Protection Oversight Committee have highlighted significant challenges with the current child welfare system and these changes are necessary to protect public health, safety, and welfare and to increase the number and types of foster homes available to serve Idaho youth.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the shortage of foster homes is at a level in which urgent action is needed. Because the major substantive changes are part of a national model act developed in partnership with many organizations, the major changes have been vetted.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alex Adams, Director, 208-334-5500.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 6th day of June, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
Alex.Adams@dhw.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0418-2401
(Only Those Sections With Amendments Are Shown.)**

300. POLICIES.

A children's agency that licenses foster homes must have policies that comply with IDAPA 16.06.02, "~~Child Care and Foster Home Care~~ Licensing," ~~Sections 400 through 499~~, and may require that additional foster care rules be met if ~~the agency deems appropriate.~~ (4-6-23)(7-1-24)T

~~301. FOSTER FAMILY HOME STUDY.~~

~~The agency must conduct and maintain an appropriate home study based on IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499, to determine if the family meets required licensing standards to be issued a foster care license.~~ (4-6-23)

~~302. TRAINING.~~

~~The agency must have and follow a training policy that includes completing the orientation and ongoing training requirements of IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499. All foster care training must be documented in the foster parent's case file record.~~ (4-6-23)

~~303. EMERGENCY EVACUATION PLAN.~~

~~An agency must have a policy requiring foster homes to have an agency-approved written evacuation plan.~~ (4-6-23)

~~301. – 303. (RESERVED)~~

(BREAK IN CONTINUITY OF SECTIONS)

306. COMPLAINT INVESTIGATION PROCESS.

01. Initiation of Complaint Investigation. When a complaint is received that relates to possible foster parent noncompliance with IDAPA 16.06.02, "~~Child Care and Foster Home Care~~ Licensing," ~~Sections 400 through 499~~, an agency must initiate a complaint investigation as soon as is indicated, based on seriousness of the allegation received, and no later than seven (7) calendar days after receipt of the allegation. (4-6-23)(7-1-24)T

02. Agency Report. Upon completion of the investigation, an agency must prepare a written report that includes: (4-6-23)

- a. The specific allegations; (4-6-23)
- b. Findings of fact, based on the investigation; (4-6-23)
- c. Conclusions regarding noncompliance with IDAPA 16.06.02, "Child Care and Foster Care Licensing," Sections 400 through 499; (4-6-23)(7-1-24)T
- d. Any changes in the agency's decision regarding placement specifications, based on the investigation's findings; and (4-6-23)
- e. Recommendations regarding licensing action and any required corrective action. (4-6-23)

(BREAK IN CONTINUITY OF SECTIONS)

362. FAMILY HOME STUDY, APPLICATION PROCESS, AND CONTENT.

An agency must complete or obtain a home study and application before approving the home for the placement of a child. (4-6-23)

01. Required Information. The home study must meet the requirements outlined in IDAPA 16.06.01 and include the following: (4-6-23)(7-1-24)T

- a. When there is a change in persons residing in the home, the applicant must notify the agency of the change by the next working day, and the new adult member must complete a background check; (4-6-23)
- ~~b. Verification that the age of the applicant complies with Section 16-1502, Idaho Code;~~ (4-6-23)
- ~~c. Names, including maiden or other names used;~~ (4-6-23)
- ~~db. Social Security Number;~~ (4-6-23)
- ~~e. Education;~~ (4-6-23)
- ~~f. Verification of marriages and divorces;~~ (4-6-23)
- ~~g. Religious and cultural practices, including their willingness and ability to accommodate or provide care to a child of a different race, religion, or culture;~~ (4-6-23)
- ~~h. A statement of income and financial resources and the family's management of these resources;~~ (4-6-23)
- ~~i. Marital relationship, if applicable, including decision-making, communication, and roles within the family;~~ (4-6-23)
- ~~jc. Description of individuals and family dynamics with each member of the household;~~ (4-6-23)
- ~~kd. Documentation of any current or past family problems, including mental illness, substance abuse, addiction, and medical conditions;~~ (4-6-23)
- ~~l. Previous criminal convictions of child abuse and neglect;~~ (4-6-23)
- ~~m. Family history, including childhood experiences and the applicant's parents' methods of discipline and problem solving;~~ (4-6-23)
- ~~ne. Special needs of the applicant's children and a description of how they will adjust to a new member of the household;~~ (4-6-23)

- ~~o.~~ Interests and hobbies; (4-6-23)
- ~~p.~~ Adequacy of the house, property, and neighborhood as determined by onsite observations; (4-6-23)
- ~~q.~~ Child care and parenting skills; (4-6-23)
- ~~r.~~ Current methods of discipline; (4-6-23)
- ~~s.f.~~ Demonstrated understanding of the care that must be provided to the children served by the agency or express a willingness to learn how to provide that care; (4-6-23)
- ~~t.g.~~ The applicant has adequate time to provide care and supervision for children; (4-6-23)
- ~~u.h.~~ Demonstration of a home life that gives children the emotional stability they need. No marital or personal problems may exist within the family that would result in undue emotional strain in the home or be harmful to the interest of children placed in the home; (4-6-23)
- ~~v.~~ A medical statement for each applicant and members of the household, signed by a medical professional, within the twelve (12) month period prior to initial approval for adoption, indicating they are in such physical and mental health so as to not adversely affect either the health or quality of care for children placed in the home; (4-6-23)
- ~~w.~~ Three (3) satisfactory references, one (1) of which may be from a person related to the applicant(s); (4-6-23)
- ~~x.~~ Names of each member of the household; this includes any persons who reside at the applicant's address; (4-6-23)
- ~~y.~~ Each adoptive parent's reasons for applying to be an adoptive parent and prior efforts to adopt; (4-6-23)
- ~~z.~~ Understanding of the permanence of adoption; (4-6-23)
- ~~aa.~~ The family's prior and current experiences with adoption; (4-6-23)
- ~~bb.~~ The attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; (4-6-23)
- ~~cc.~~ Family's attitudes toward the adoptive child's birth family and willingness to allow them contact with the child after adoption; (4-6-23)
- ~~dd.i.~~ Applicant's experience with other support agencies or resources in their communities and their comfort level in seeking help from services outside the family; (4-6-23)
- ~~ee.j.~~ Applicant's awareness of the potential for the child to have identity issues and loss regarding separation from birth parents; (4-6-23)
- ~~ff.k.~~ Applicant's ability to accept a child's background and help the child cope with their past; (4-6-23)
- ~~gg.l.~~ Applicant's understanding that the child will have questions about birth parents and other relatives; (4-6-23)(7-1-24)I
- and
- ~~hh.~~ Specifications of children preferred by the family that include the number of children, and the age, gender, race, ethnic background, social, emotional, and educational characteristics; (4-6-23)
- ~~ii.~~ Information on the adoptive family's medical insurance coverage including insurance carrier;

~~policy number, eligibility of new adoptive family member(s), limitations, and exclusions; and (4-6-23)~~

~~jjm.~~ How the household will fulfill their transportation needs. (4-6-23)

02. Pre-Adoptive Parent to Inform Agency of Changes. The pre-adoptive parent is responsible to keep the agency that completed the home study informed of changes in the family's circumstances, or of any subsequent decision against adoption. (4-6-23)

03. Adoptive Placement Agreement. A home study is valid for the purposes of new adoptive placement for a period of one (1) year following the date of completion. Upon completion of an adoptive placement agreement, a home study remains valid for a period of two (2) years from the home study date of completion for the purpose of finalizing the adoption of the child(ren) for whom the adoptive placement agreement was written. (4-6-23)

363. SAFETY REQUIREMENTS.

The property, structure, premises, and furnishings of an adoptive home must be constructed and maintained in good repair, in a clean condition, free from safety hazards and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. The safety requirements must be consistent with IDAPA 16.06.02, "Foster Care Licensing," and may require that additional safety rules be met if the agency deems appropriate. (4-6-23)(7-1-24)T

~~**01. Pools, Hot Tubs, and Ponds.** Homes must provide the following safeguards: (4-6-23)~~

~~**a.** Around any body of water, children have appropriate adult supervision consistent with the child's age, physical ability, and developmental level; (4-6-23)~~

~~**b.** The area surrounding access to a body of water for use by children will be secured by a fence and locked in a manner that prevents access by children, or have a secured protective covering that prevents access by a child; (4-6-23)~~

~~**c.** Pool or hot tub covers be completely removed when in use; (4-6-23)~~

~~**d.** When the pool or hot tub cover is in place, the cover is free from standing water; (4-6-23)~~

~~**e.** Covers are always secured when the pool or hot tub is not in use; and (4-6-23)~~

~~**f.** Exterior ladders on above-ground pools be removed when the pool is not in use. (4-6-23)~~

~~**02. Access by Children Five Years Old and Under.** Any home that has children five (5) years old or younger and chooses to prevent access to a body of water by fencing must provide the following: (4-6-23)~~

~~**a.** The fence be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; (4-6-23)~~

~~**b.** The gate be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; (4-6-23)~~

~~**c.** If the house forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool have alarms that produce an audible sound when the doors are opened; and (4-6-23)~~

~~**d.** Furniture or other large objects will not be left near the fence enabling a child to climb on the furniture and gain access to the pool. (4-6-23)~~

~~**03. Irrigation Canals or Similar Bodies of Water.** A home that has a child five (5) years old or younger or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal or similar body of water, must have fencing that prevents access to the canal or similar body of water. (4-6-23)~~

364. FLAME AND HEAT PRODUCING EQUIPMENT.

~~A home that has a furnace, fireplace, wood-burning stove, water heater, and other flame or heat-producing equipment must ensure that said equipment is installed and maintained as recommended by the manufacturer, and fireplaces protected by screens or other means. (4-6-23)~~

365. SMOKE AND CARBON MONOXIDE DETECTORS.

~~Each home must meet the following: (4-6-23)~~

~~**01. Smoke Detectors.** There will be: (4-6-23)~~

~~**a.** At least one (1) single-station smoke detector that is installed and maintained as recommended by the manufacturer; (4-6-23)~~

~~**b.** One (1) smoke detector on each floor of the home, including the basement; (4-6-23)~~

~~**c.** One (1) smoke detector in each bedroom; and (4-6-23)~~

~~**d.** One (1) smoke detector in areas of the home that contain flame or heat-producing equipment other than domestic stoves and clothes dryers. (4-6-23)~~

~~**02. Carbon Monoxide Detectors.** There will be at least one (1) carbon monoxide detector installed and maintained as recommended by the manufacturer. A house that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement. (4-6-23)~~

366. EXITS.

~~There must be at least two (2) exits from each floor level used by a family member that are remote from each other, one (1) of which provides a direct, safe means of unobstructed travel to the outside at street or ground level. A window may be used as a second exit if in compliance with these rules. (4-6-23)~~

367. DANGEROUS AND HAZARDOUS MATERIALS.

~~Dangerous and hazardous materials, objects, or equipment that could present a risk to a child, including poisonous, explosive, or flammable substances must be stored securely and out of reach of a child for the child's age and functioning level. (4-6-23)~~

368. FIREARMS AND AMMUNITION.

~~Ammunition must be in a locked container and inaccessible to children. Firearms must be: (4-6-23)~~

~~**01. Trigger Locks.** Unloaded and equipped with a trigger lock; (4-6-23)~~

~~**02. Unassembled and Inoperable.** Unloaded, fully inoperable, and unassembled; (4-6-23)~~

~~**03. Locked Cabinet or Container.** Unloaded and locked in a cabinet or storage container that is inaccessible to children; or (4-6-23)~~

~~**04. Gun Safe.** Locked in a gun safe that is inaccessible to children. (4-6-23)~~

369. PETS AND DOMESTIC ANIMALS.

~~Any pet or domestic animal that is suspected or known to be dangerous must be kept in an area inaccessible to children. (4-6-23)~~

370. HEAT, LIGHT, AND VENTILATION.

~~A home must have adequate heat, light, and ventilation. (4-6-23)~~

371. BATHROOMS, WATER SUPPLY, AND SEWAGE DISPOSAL.

~~A home must meet the following: (4-6-23)~~

~~**01. Bathrooms.** A minimum of one (1) flush toilet, one (1) sink that has warm and cold running water, and one (1) bathtub or shower that has warm and cold running water, all in good working order. (4-6-23)~~

~~**02. Water Supply.** The water supply meets one (1) of the following requirements: (4-6-23)~~

~~**a.** It is water used for consumption that is bottled water from an acceptable source or water boiled for a period specified by the health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; or (4-6-23)~~

~~**b.** Water used for consumption is from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (4-6-23)~~

~~**03. Sewage Disposal.** Sewage will be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, under IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules." (4-6-23)~~

~~**364. – 371. (RESERVED)**~~