

ALABAMA DEPARTMENT OF HUMAN RESOURCES  
SOCIAL SERVICES DIVISION  
ADMINISTRATIVE CODE

CHAPTER 660-5-28  
FOSTER CARE FOR CHILDREN

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**660-5-28-.01** Definition Of Foster Care. Services for children outside of their own homes on a 24-hour basis in a licensed or approved facility include: diagnosis and evaluation; counseling with parents, relatives, child, provider of foster care; information and referral; recruitment and study of foster care resources; legal services; purchase of transportation services for child returned to this state and from this state to another state pursuant to placement agreements. Transportation and recreational services may be included in purchase of service contracts. Payment may be made for specialized foster care services in foster homes for children with physical, mental, emotional, or behavioral problems. Portions of this program are available under the State Supplemental program.

**Author:**

**Statutory Authority:** Code of Ala. 1975, Title 38, Chapter 2; Title XX of the Social Security Act, 42 U.S.C. 1397; Title IV-B and Title IV-E of the Social Security Act, 42 U.S.C. 1302; and the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96 272).

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**660-5-28-.02 Minimum Standards For Foster Family Homes.**  
**(Repealed)**

**Author:** Jeanette Gautney

**Statutory Authority:** Code of Ala. 1975, §26-1-4, §§38-7-1 through -17, as amended by Act No. 81-310, Acts of Alabama 1981.

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**660-5-28-.03 Foster Care Resources.**

(1) The responsibility of the State Department of Human Resources for providing substitute care to dependent, neglected, abused, and otherwise handicapped children, carries with it: the responsibility of developing new resources; evaluating homes, group homes, and institutions that make application for approval or a license; and the responsibility for reevaluating, reapproving, or relicensing existing foster care resources.

(2) The State Department of Human Resources has delegated to the County Department of Human Resources the responsibility to develop and approve foster homes. Prior to being approved, it must be determined that the prospective foster homes meet the standards prescribed in Minimum Standards For Foster Family Homes: Principles, Regulations, Procedures, 1974

(Revised 1982). It is the responsibility of the County Department to make inquiry into unapproved homes boarding unrelated children. It must be determined that such a home meets the prescribed minimum standards and is an appropriate resource for these children before approval can be granted. The Department also has the responsibility to develop resources through the recruitment and evaluation of potential foster homes.

(a) Foster Family Homes.

1. The types of Foster Family Homes are: (a) Boarding Homes and (b) Free Homes.

(i) Foster Family Boarding Homes.

(I) A "boarding home" means a Foster Family Home wherein the foster family receives a child or children and receives payment for their care, provided, however, that the number of children so received shall not exceed six unless said children are of common parentage.

(ii) Foster Family Homes Serving as Maternity Centers.

(I) In addition to meeting the Minimum Standard for Foster Homes, homes serving as maternity centers must be appropriate for minor pregnant girls who are in need of foster care services.

(iii) Unrelated Free Homes.

(I) A free home is a Foster Family Home which does not receive payment for the care of unrelated children. The home may or may not receive the child or children for the purpose of adoption. The free home is subject to the same rules and regulations regarding care of children, standards of home, etc. as the boarding homes.

(b) Principles and Procedures for Developing and Evaluating Foster Family Homes.

1. Recruitment.

(i) The County Department has the responsibility to recruit Foster Family Boarding Homes through: (1) general community interpretation, (2) publicity campaigns, (3) news media, (4) direct appeal to specific interested groups or organizations, and (5) individualized approaches to specific families who may be interested in boarding foster children.

(ii) It is desirable for the foster family to include two parents. However, a single parent whose personal qualities are satisfactory may be approved.

2. Foster Home Study.

(i) Purpose. The purpose of the foster home study is to allow the Department to learn enough about the applicants to determine whether or not they can be successful as foster parents and the type of child they can best serve. The study involves an evaluation process aimed toward fulfilling the Department's responsibility to protect and assure foster children of a safe and enriching environment for their development.

(ii) Screening of Application.

(I) During the initial contact with the agency, the applicants are screened to determine if they meet the broad agency requirements. Prospective foster parents should be informed of the services, policies, procedures, regulations and expectations to help them decide whether or not they wish to continue with the study.

(iii) Study and Evaluation.

(I) The applicant's children as well as other persons living in the home should be involved in the study.

(II) The following areas must be discussed with the applicant during the study: characteristics of children requiring placement, the kinds of situations which necessitate placement, problems children face in their role as foster children, varying length of time which children need placement, difference between foster family care and adoption, worker's role with foster parents, child and natural parents, responsibility of agency for children served, Department's responsibility for making study of home recommendations, and the Department's policies and procedures regarding payment for foster care.

(III) The marriage and all previous divorces of foster applicants must be verified.

(IV) References for the applicants must be contacted for supplemental information regarding the applicant's ability to provide care for foster children.

(V) A diagnostic evaluation and recommendation for approval or disapproval are made upon completion of the study. The final recommendation for approval should include the number, age, and sex of children the foster family can best serve.

(VI) If the application is approved, the County Department issues a "Foster Family Home Approval", signed by the Director or employee authorized to sign the Director's name. The approval extends one year from the date of issuance. The original copy of the approval is given to the foster parents.

(VII) Children are not to be placed in a home until a study of the home is complete and the approval is in the possession of the foster parents.

(VIII) In the event a couple has been inactive, disapproved, refused a renewal of an approval or had their earlier approval revoked and then wishes to reapply, the earlier reasons for not proceeding with the agency must be discussed in detail. A new application form and all other forms must be completed as with an initial application.

(iv) Application Renewal.

(I) Approval remains in effect for one year from date of issuance unless revoked. Application for a renewal is to be completed thirty (30) days prior to expiration date of the current approval. The home will be subject to a reevaluation by the agency. The foster parents must complete the form, Application to Operate Foster Family Home.

(II) The reevaluation of the home includes: any change in the foster family's household or physical setting; every 4 years, a physical examination or statement from a licensed practicing medical doctor or a physician's assistant which attests to the foster parent's freedom from infectious and contagious disease and physical fitness to care for children; the requirement of foster parents age 62 and older to have the physical examination or medical statement completed every 2 years; a statement from a licensed practicing medical doctor or a physician's assistant on all other members of the household (i.e. foster parents' own children, relatives, etc.) every 4 years indicating the person's freedom from contagious infectious disease; information regarding any major changes in foster family's financial situation; changes in capacities for child caring; an assessment of the foster parents' ability for providing for and meeting needs of foster children during the past year; an assessment of their relationship to the agency; and an assessment of areas in which foster parents have needed help and requested it from agency.

(III) If the foster parents' renewal application is approved following the reevaluation, a new form, "Foster Family

Home Approval," must be completed in duplicate and the original copy sent to the foster parents.

(IV) If the decision is made that the home cannot be reapproved, the reasons must be discussed with the foster parents in a way that will minimize the damage to the family and give recognition to their strengths. The foster parents should have the opportunity to withdraw voluntarily. The decision should be confirmed in writing to the foster parents.

(v) Disapproval or Revocation of Approval.

(I) The Department may revoke, disapprove or fail to renew an approval at any time the foster home does not maintain standards prescribed and published by the Department. In each situation, the reasons should be discussed with the foster parent applicants or foster parents and confirmed in writing.

(II) If the home has failed to submit reports or records required by the Department, the Department must make written demand for such records or reports. If the home fails to submit requested material within 10 days following such written notice, the approval may be revoked.

(vi) Supervision of Foster Family Home.

(I) The County Department must maintain supervision of the child and home during placement through frequent home visits and telephone contacts. These contacts serve to help foster parents function adequately in their role as well as provide services to the child.

(II) The worker supervising a foster home must have contact with the foster parents every six months, although currently they may not be serving children.

(vii) Termination of Placement.

(I) When foster parents request termination of placement, advance notice should be given to the agency if possible. The worker must determine the reason for the requested move and evaluate the home in relation to continued use and future placement.

(II) When the Department terminates a foster placement, the foster parents must be given an advance notice and a reason for the termination except when conditions occur which indicate that immediate removal is needed. The worker should help the foster parents accept the need for the child's move and give assistance with the preparation of the child for his removal.

(viii) Grievance Review Procedure.

(I) A "grievance" is defined as a complaint about the methods or ways services are provided to foster children in foster homes and services provided to foster parents.

(II) If a problem related to services arises in a foster home and cannot be resolved by the foster parents and social worker, the foster parent has the right to seek resolution by notifying the social worker's immediate (line) supervisor either orally or in writing. It will be the supervisor's responsibility to collect pertinent information, make an evaluation, and review with the foster parent the decision. If the problem cannot be resolved by the supervisor or if the foster parent is dissatisfied with action taken, the foster parent may request a review of the grievance by the County Director.

(III) After attempting to resolve on the local level, the foster parent may choose to take the grievance up with the State Department. This may be done through written or oral contact directed to the Bureau of Family and Children's Services. Any decision made by the Department concerning the grievance will be considered final.

(IV) It is recognized that conflicts between foster parents and the Department do arise and that procedure is needed for addressing these conflicts. They need to be aware that their ideas and feelings are important to the Department and can be expressed. They will be listened to and an objective decision made. Efforts will be made to improve or change practices and procedures as needed.

(3) Child-Care Institutions and Group Homes.

(a) The State Department of Human Resources has the legal responsibility to license all private institutions and group homes serving dependent and neglected children. Group Homes are facilities which care for at least seven but not more than ten children. Child-Care Institutions are facilities which provide care for more than ten children.

(b) Generally, Child-Care Institutions or Group Homes are resources for the care of children who cannot be cared for in their own homes and whose needs can best be met by group living. Such a group living situation provides more structure than a Foster Boarding Home.

(4) In-State Residential Treatment Under Contract.

(a) Children referred to these facilities must have mild to severe behavioral or emotional problems which cannot be treated on an out-patient basis.

(b) These children must also be eligible for Title XX Services in order for the facilities to receive payment.

(5) Out-of-State Residential Treatment Facilities for Emotionally Handicapped Children.

(a) Approval for placement in an out-of-state residential treatment facility will be given only for children placed by court order in the temporary or permanent custody of the Department.

(b) Continued approval for such payments will be contingent on: reassessment of need each six months, the appropriateness of the plan, the income of the family, and alternate plans being made to an in-state facility as soon as feasible without jeopardizing the well-being of the child.

(c) All appropriate resources within the state must be explored before approval will be given for referral to an out-of-state facility.

(6) Foster Care for Indian Children.

(a) The Department of the Interior, Bureau of Indian Affairs, has developed guidelines to assist state social service agencies in the implementation of foster care services to Indian children.

(b) There are certain procedures that must be followed when an Indian child in need of foster care comes to the attention of a County Department. The County Department is to notify the Bureau of Family and Children's Services, Division of Foster Care, so the County Department can be advised of appropriate procedures to follow in developing a foster care plan for the child.

(7) Provisional Foster Care for Children.

(a) Intent. The intent of provisional approval is to provide a method for front line staff to expedite the temporary approval of a foster care resource in an emergency situation, when that resource is in close proximity to the child's own home, is known to the child and/or his family and can provide a safe environment for the child while reducing the trauma the child might experience if placed with strangers. It is NOT the intent of these standards to provide a means to circumvent or negate

current policy or licensing standards for approving foster homes, and this provisional approval should only be used in those emergency situations in which the conditions described herein exist.

(b) Definitions

1. Community: The area served by the school system where the child attends if that area includes the physical neighborhood where the child and his/her family live

2. Child's Own Home: The physical environment or location of the family in which the child resides or was residing prior to removal or placement in DHR custody or care.

3. Close Proximity: The same neighborhood, community, or if that is not feasible, the home county of a child.

4. Emergency Situation: A situation in which the child has been harmed or is at risk of imminent serious harm or threatened harm and action to protect the child must be taken.

5. Foster Care Disruption: Circumstances in a foster care placement resulting in the immediate need to remove the child from the current placement.

6. Neighborhood: The physical area in which the home is located.

7. Provisional Approval: A temporary foster care approval of a specific family in an emergency situation for a specified child in the custody/planning responsibility of the department.

8. Provisional Foster Home: A foster home approved to provide foster care for a specific child, located in close proximity to the child's home, in an emergency situation pending full compliance with an ISP.

(c) Required Criteria for Provisional Approval

1. Prior to assessing and inspecting a home for a provisional approval the following conditions must exist:

(i) An emergency situation where a child must be removed immediately from his own home or;

(ii) The disruption in a foster home which results in the immediate need to remove the foster child from his current placement; and

(iii) The Department or child placing agency must currently have custody/planning responsibility of the child either through a verbal or written court order, Foster care agreement or summary removal action. \*\*See Chapter VII, Family and Children Services Manual regarding when to use foster care agreements.

(iv) The prospective foster family home must be located in the child's neighborhood or community and if that is not feasible in his home county making it possible for the child to continue in the same school, church and community activities.

(v) The prospective foster family home must be a family known to the child and/or his family.

2. Once a prospective provisional foster family has been identified an assessment of the provisional foster family's willingness and ability to provide care to the child and meet the child's needs shall be made. The following are to be considered in making this assessment:

(i) The relationship between the child and/or the prospective foster family;

(ii) The experience and expertise the prospective foster family has in providing care to children;

(iii) The prospective foster family's past role in helping or protecting the child while preventing occurrences of abuse/neglect;

(iv) The prospective foster family's understanding of the need for protection and the ability to provide protection and support to the child;

(v) Contact and input of all household members; and

(vi) The prospective foster family's willingness and ability to be in full compliance with Minimum Standards for Foster Family Home within six months of approval.

(d) Preferred Criteria

1. The foster family should have knowledge and understanding of the circumstances which resulted in the child's need for placement.

2. The selection of the foster home is to be made in partnership with the child, and/or the child's family and the department or child placing agency.

3. The placement should provide the child with the opportunity to attend the same school, church and community activities and to maintain contact with family friends and neighbors.

(e) Home Safety Assessment

1. A home safety inspection must be made to determine any apparent risk to the health and safety of the child. The home must meet the following requirements for foster family homes which can also be found in Minimum Standards For Foster Family Homes :

(i) The Foster Family Home shall be located in a neighborhood which is suitable and favorable to the general welfare of the child or children to be placed.

(ii) The Foster Family Home shall be accessible to schools, churches and other community facilities which offer wholesome opportunities for the child's growth and development.

(iii) Inspections by the state or local fire department and by the state or local health department shall be required as determined necessary by the Department, the licensed child-placing agency, or the foster parent(s).

(iv) A smoke detector shall be located within ten feet of each bedroom and no more than 30 feet apart in hallways. In a two story house (upstairs or basement) a smoke detector shall be located at the head of the stairway.

(v) A 2A 10BC dry chemical fire extinguisher no less than 5 pounds in weight shall be installed in an accessible spot, near an escape route no later than 5 days from the date of the provisional approval.

(vi) Unvented natural gas heaters are prohibited in bedrooms and bathrooms. Unvented propane gas space heaters equipped with oxygen depletion devices are permitted in all areas of foster family homes (including bedrooms and bathrooms) which are one or two family dwellings if the heaters are installed in

accordance with local and national gas codes as verified to the Department or child -placing agency by a written statement from a qualified professional. This type heater is not allowed in manufactured homes (mobile homes) or modular homes. No stove or combustion heater shall be so located as to block escape in case of fire arising from malfunctioning of the stove or heater.

(vii) Homes having a pool/spa must be in compliance with the Minimum Standards for Foster Family Homes.

(viii) It shall be determined as soon as possible that a mobile home conforms to National Mobile Home Construction and Safety Standard Act of 1974. An aluminum plate permanently attached to the mobile home, will indicate conformity with the 1974 Act. Mobile Homes shall comply with anchoring and tie-down requirements as specified by Code of Ala. 1975, Section 24-5-30 through 24-5-34.

(ix) The Foster Family Home and grounds shall be free from anything which constitutes a danger (e.g., abandoned automobiles and household appliances, uncovered wells and cisterns, stacked lumber with exposed nails and explosives). Appropriate safeguards shall be provided against potential hazards (e.g., open fires, heaters, cooking ranges, thermostatic controls, guns, poisons drugs).

(x) A fence enclosing a play area shall be provided when there are hazards in the immediate neighborhood.

(xi) All windows and doors shall be screened against insects unless the home is air conditioned. The home shall be adequately ventilated and comfortably cooled and heated.

(xii) The Foster Family Home shall be in a clean condition.

(xiii) The Foster Family Home shall have an adequate number of bedrooms. The bedrooms shall not be used for purposes other than for the child's sleeping, personal care, privacy and studying. The bedrooms shall be ventilated and appropriately lighted. Adequate space shall be provided for each child's personal belongings.

(I) Children shall not sleep with adults.

(II) No more than two unrelated children shall be permitted to sleep in the same bed and they must be of the same sex and less than 6 years old.

(III) Siblings of any age of same sex may sleep in the same bed when determined appropriate by the worker and foster parent.

(IV) Separate sleeping rooms must be provided for children over age 6 who are of the opposite sex.

(V) All babies must sleep alone.

(xiv) Adequate space and facilities shall be available for the special care of sick members of the family and the foster child(ren)

(xv) The Foster Family Home and grounds shall include safe and suitable play space for indoor and outdoor activity.

(xvi) The certificate of rabies vaccination shall be on file in the home for any animal on the premises required by law to be vaccinated. Animals that pose a threat to children's health and safety shall be kept in an area inaccessible to children.

(xvii) Every Foster Family Home shall have reasonable access to a telephone.

(xviii) The Foster Family Home shall have adequate and appropriate facilities for the storage, protection and preparation of food.

xix) Video tapes shall be viewed by the foster parent(s) for appropriateness before being shown to children. Video tapes, computer software and reading materials with a sexually explicit, frightening or violent content shall be inaccessible to children.

(xx) The Foster Family Home shall not receive or care for roomers or boarders without special approval by the Department or the licensed child-placing agency.

(xxi) Foster Family Homes approved to service children shall not be approved to serve adults without special approval by the Department or the licensed child placing agency.

(f) Health of Household Members

1. The health of all family members shall not be detrimental to the physical and mental well being of the child(ren) placed in care.

(i) An initial physical examination for foster parents by a licensed practicing medical doctor, a physician's assistant (as defined in Section 34-24-290(4), Code of Ala. 1975, or certified family nurse practitioner shall be made no later than ten(10) days from the date the home was provisionally approved. A record of the examination shall be filed with the Department or licensed child-placing agency. DHR-DFC-737, Medical Report for Persons Giving Care to Children (see copy in the Appendix), shall be completed in all respects, including the tests specified.

(ii) A statement from a licensed practicing medical doctor, a physician's assistant, or certified family nurse practitioner on all other members of the household (i.e., foster parents' own children, relatives, etc.) shall be submitted to the Department or licensed child-placing agency within ten(10) days of the provisional approval. Each statement shall indicate the person's freedom from contagious and infectious diseases.

(iii) Where there is indication of possible disease, the foster parent or member of the household shall have appropriate medical consultation, and treatment if prescribed. If, upon observation, examination or as a result of tests, a foster parent or member of the household shows indication of a physical, emotional, or mental condition which could be detrimental to the children's care or which would prevent satisfactory performance of duties, said person shall not give care to children in the custody/planning responsibility of the department until the conditions are corrected to the satisfaction of the examining licensed practicing physician, the Department or the licensed child-placing agency.

(g) References

1. The worker must obtain names, addresses and telephone numbers of three references who can provide information as to the prospective foster family's ability to care for children and that all members of the foster family are of good character and suitability.

2. At least one reference contact must be made before a family is to be provisionally approved. Additional references contacts shall be made on the next business day from the provisional approval and placement of the child.

(h) Child Abuse and Neglect Central Registry, Criminal History and County Records Check

1. The worker must obtain sufficient information to clear the CAN Central Registry, Criminal History and County Records on all provisional foster home applicants. Sufficient

information must be obtained on all household members to permit clearance checking of the CAN Central Registry and county department records.

2. The CAN Central Registry must be cleared on all household members as soon as the information is available. If access to the CAN Central Registry is not available, i.e., after regular office hours or when the computer system is inoperable, a central registry check is to be made the next business day after the provisional approval or as soon as the computer system is operable.

3. Check of local county files and local criminal history shall be made the next business day after the provisional approval. Fingerprints for all family members 19 years or older living in the provisional foster home are to be obtained and submitted to the Alabama Bureau of Investigations and the Federal Bureau of Investigations the next business day after the provisional approval of the home.

4. If information learned through the above mentioned checks shows prior CAN's, convictions or other involvement with drugs or illegal activities that would place the child at risk of harm or threatened harm, the provisional approval will immediately be revoked and the child(ren) in the agency's custody removed immediately.

(i) Issuance of a Provisional Approval

1. Child Welfare Staff and Adult Service Staff who have knowledge and understanding of this policy may issue a provisional approval only with authorization from the County Director and/or the Supervisor which is confirmed by the individual's signature on the provisional approval document.

(j) Limitations of Provisional Foster Home Approvals

1. A provisional foster home must meet established standards outlined in this policy for a provisional approval.

2. Provisionally approved foster homes are limited to serving only those children and/or siblings for whom the home was provisionally approved. Should these child(ren) be removed from the home the provisional approval is automatically revoked.

3. Should the foster family move to another residence the provisional approval is revoked as it is nontransferable. The new home must be assessed to determine if it meets the

minimum standards for a provisional approval according to the policy described herein.

4. Any changes occurring in the provisional foster home that affects the care of the child must be reported to the Department of Human Resources. At a minimum such changes include a change in location, household composition, termination of employment, debilitating illness or injury of a caretaker, and divorce or separation. When notified of changes the department must reassess the resource to determine if the home can remain provisionally approved.

5. Provisional approvals are limited to six (6) months during which time the home is to come into full compliance with the Minimum Standards for Foster Family Homes. Provisional approvals are nonrenewable. Once the home has fully complied with the Minimum Standards for Foster Family Homes it may be utilized for other foster children. Should the home fail to come into full compliance in the designated time the provisional approval will be revoked and the child in the agency's custody shall be removed immediately.

6. Therapeutic foster homes can not be provisionally approved.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, Title 38; Title XX of the Social Security Act 42, U.S.C. 1397; Title IV-B and Title IV-E of the Social Security Act 42 U.S.C. 1302; and Indian Child Welfare Act of 1978 (P.L. 95-608).

**History:** Effective October 11, 1983. Emergency amendment effective November 6, 1992. **Amended:** January 5, 1993; February 8, 1993. **Amended:** Filed July 8, 2002; effective August 12, 2002.

#### **660-5-28-.04 Authority To Place.**

(1) When the decision is made that a child is in need of foster care, the County Department must have either an Agreement for Foster Care (PSD-FCS-731), an order issued by the court giving the County Department the authority to plan for the child pending a court hearing, or an order giving temporary custody of the child to the County Department. A child may be placed in foster care when in the protective custody of the Department. Protective custody cannot exceed 72 hours. Only under the above conditions can a County Department accept responsibility for a child and authorize payment. Exceptions to the requirement that the County Department have custody or an

Agreement for Foster Care are made in the following situations:  
(a) children who are in the custody of the Department of Youth Services or the Department of Mental Health and are being placed in a contract facility with the Department of Human Resources concurring in the plan and determining Title XX eligibility; or  
(b) children for whom the Department of Human Resources determines Title XX eligibility for placement in certain mental health facilities under contract with the Department of Mental Health determining appropriateness of the plan.

(2) Voluntary Placement.

(a) Parents, temporarily unable to care for their child, may request the Department to place their child in foster care. The decision to accept a child into foster care on a voluntary basis should be made through the Individualized Service Plan (ISP) Process. If it is determined that foster care is the best plan for the child, the parent(s) holding legal custody can authorize the Department to place the child by signing an Agreement for Foster Care, PSD-BFC-731. Parents should not be pressured into entering into an Agreement for Foster Care to avoid court action. A copy of the agreement must be given the parents.

(b) The Department has no authority under a voluntary agreement to hold a child against the parent's wishes; consequently, the parent has the right at any time to request and to receive his child. Voluntary agreements are to be accepted only in situations in which the Department would have no hesitancy in returning the child to his parents.

(c) The Agreement for Foster Care must be for a time period not to exceed 180 days. If placement is to continue, a judicial review must be held before the expiration of the agreement. If the child cannot go home within 90 days of the expiration of the first agreement; then, it is necessary to petition the court for custody.

(d) All ASFA provisions related to case review and permanency hearings are applicable.

(e) At any time evaluation indicates little or no progress is being made toward the goals established, a petition for temporary custody should be promptly filed and alternative permanent planning pursued.

(3) Court-Authorized Placement.

(a) The Department should bring cases to the attention of the court through filing a complaint in situations where a

child is in need of protective judicial action. When parents do not or cannot provide the child with care and protection essential for his well-being or when the child is in immediate danger, court action should be taken.

(b) The decision to petition the court must be made in the following circumstances:

1. The child has been abandoned or deserted and needs the protection of the court.

2. Conditions in the home are dangerous or detrimental to the child's physical, mental, or emotional well-being.

3. The child's custody status is not clear or is the subject of controversy to the extent that the child is obviously being harmed or is in threat of harm.

4. A child is left with baby sitters beyond the agreed upon time - especially overnight, for several days, over weekends, and this constitutes a pattern of behavior for the parent.

**Author:** Jerome Webb

**Statutory Authority:** Code of Ala. 1975, Titles 12, 26, and 38; Title XX of the Social Security Act, 42 U.S.C. 1397; and Title IV-B and Title IV-E of the Social Security Act, 42 U.S.C. 1302.

**History:** Effective October 11, 1983. Emergency amendment effective January 30, 1984. Permanent amendment effective May 10, 1984. Succeedent amendment effective March 12, 1985. Succeedent permanent amendment effective June 10, 1986. **Amended:** Filed July 8, 2002; effective August 12, 2002.

**660-5-28-.05 Selection Of Appropriate Foster Care Resources.**

When substitute care becomes necessary, children should be placed in the least restrictive setting possible. This means the most family-like setting that can provide the environment and services needed to serve the child's best interests and special needs. In substitute care, relative placement should always be given first consideration after which Foster Family Care, Group Home Care, and Institutional Care are to be considered in that order. If the Department places children in foster family homes/unrelated homes, group homes and child care institutions, these placement resources are required to be in approved/licensed status except as otherwise ordered by a court of law.

**Author:** Jerome Webb

**Statutory Authority:** The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272).

**History:** Effective October 11, 1983. **Amended:** Filed May 5, 1993; effective June 9, 1993.

**660-5-28-.06 Requirements Of Public Law 96-272 For Reunification Efforts.**

(1) Child's Case Plan. One requirement necessitates the development of a written case plan for the child within 30 days from the time of placement. For children in foster care or related care less than 30 days, this case plan requirement is waived. A brief case plan statement will suffice. The case plan is to be recorded in the narrative of the child's personal record and dated. A copy of the case plan is to be made available to the parent(s). The child's case plan must include the following:

(a) Description of the type of home or child-care facility in which child is to be, or has been, placed;

(b) Justification of the appropriateness of the placement as whether it is:

1. in the least restrictive (or family-like) setting available, relative placement to be given first consideration, after which foster family care, group home care, and institutional care are to be considered, in that order; or

2. in close proximity to the parent's or family home: resources within the community/locale of child's family to be sought first, then resources within county, then out-of-county resources.

(i) out-of-county resources, especially those at great distances from the child's family, are to be considered only as a last resort.

3. consistent with the best interests and special needs of the child: to be considered in conjunction with a. and b. above and can take precedence over either or both, but reasons must be documented;

(c) An analysis of the circumstances which necessitate the child's placement, together with a statement of:

1. what efforts were made and what services were provided to prevent the child's placement;

2. what conditions in the child's own home need improving before the child can be returned; and

3. what services are to be provided to improve these conditions;

(d) A statement of the plan for assuring that the child receives proper care while in placement which encompasses:

1. placement in a duly licensed facility or approved home together with needed and appropriate supervision;

2. services to:

(i) the providers to facilitate and support the child's adjustment in placement.

(ii) the child to address his needs, together with a discussion of the appropriateness of the services provided to address those needs; and

3. a statement of the transitional independent living plan based upon an assessment of the needs of each child age 16 and over.

(e) A statement of the child's permanent plan, developed in conjunction with the child's family, and the child as appropriate;

(f) A description of the extent to which the parents or other relatives, and the child if of appropriate age, participate in the development of the permanent plan for the child. Appropriate age for the child means that he is able to understand the circumstances and implication of the situation he is involved in and able to participate in the decision, or the process of arriving at a decision, without excessive anxiety or fear;

(g) A statement of the requirements of the court or the recommendations of the administrative review panel, in connection with the required six-months' case review, and how the Department will meet those requirements and recommendations;

(h) An estimated date by which a decision will be made to return the child to the parents or seek an alternative permanent placement; and

(i) A summary statement of what efforts will be (or have been) made and what services will be (or have been) provided to re-unify the child with his family.

(j) Effective April 1, 1990, health and education records of the child, to the extent available and accessible which includes the following:

1. The names and addresses of the child's health and educational providers;
2. The child's grade level performance;
3. The child's school record;
4. Assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of the placement;
5. A record of the child's immunizations;
6. The child's known medical problems;
7. The child's medications; and
8. Any other relevant health and education information concerning the child determined to be appropriate by the agency.

(2) Case Review. The case review is another requirement. Evaluation of case planning for the child will be an ongoing and continuous process. However, the record must clearly show a review of the case plan for every child in foster care either by court review or administrative review, at least every six months. These review requirements apply to all children in custody of the Department or for whom the Department has planning responsibility whether or not they are in foster care. For foster children age 16 and over, the written transitional independent living plan must be reviewed at the six-month's review. Notice to parents is not required for either judicial review or administrative review or administrative panel review when parental rights have been terminated. However, case review continues to be required for all such cases, except when the child has been placed for adoption and the adoptive placement agreement has been signed. For some children, those older and/or in long-term foster care, whether in temporary or permanent custody, it may be more feasible, and is acceptable, to have administrative panel review rather than judicial review, even though the usual procedure in the County is judicial review.

(a) Judicial Review. If the County Department has a judicial review system that entails the review of the child's case plan at least every six months, then the requirement for case review will be met. However, the County Department is

required to submit a Report to Court which will assist the court in determining:

1. The continuing necessity for and appropriateness of the child's placement;
2. The extent to which all parties have complied with the case plan and achieved the goals described in the plan;
3. Progress made toward alleviating or mitigating the circumstances necessitating placement; and
4. A target date for achieving a permanent plan for the child.

(b) Administrative Review. If the County Department does not have a judicial review system that entails review of the child's case plan every six months, then an administrative review system must be set up that incorporates review of the child's case plan at least every six months. The administrative review must be in accordance with the following guidelines:

1. Composition of Review Panel.

(i) Professional Staff. The administrative review panel should consist of professional staff involved in the case. These considered appropriate are: the caseworker for the child and parents, supervisor for the case, probation officer, staff of the child-care facility where the child is in placement, and staff from other agencies such as mental health. When appropriate, foster parents or homemakers may be included. To protect confidentiality of information, the County Department must have a written agreement with panel participants, other than staff of the County Department, court or Group Child-Care facility where the child is residing. The parents should be informed that panel participants will receive a written report on the outcome of the review.

(I) There must be at least one person on the panel who is not in the direct line of supervision or in the delivery of services to the child or parents. This may be another service supervisor in the County Department. If the County Department has difficulty in identifying someone to serve on the panel who is not a part of the direct line of supervision for the case being reviewed, contact the Division of Family and Children's Services, Office of County Assistance.

(ii) Parent and Child. The review shall be open to participation by the parents. The child may be included in the review hearing depending upon his age and level of understanding.

2. Written Notice to Parents. The County Department must notify the parents in writing of the date, time, and location of the review at least 2 weeks prior to the review hearing. The notification must advise the parents that they and the child have the right to be accompanied by a representative of their choice.

3. Format and Content of Review. The worker for the case is responsible for convening the panel and explaining to participants the purpose of the review. The review shall include:

(i) A determination of the continuing necessity for and appropriateness of the child's placement;

(ii) A discussion of the extent to which all parties have complied with the case plan and achieved the goals described in the plan;

(iii) A summary of progress toward alleviating or mitigating the circumstances necessitating placement; and

(iv) A target for achieving a permanent plan for the child.

4. Reporting. After the review is completed, the worker is responsible for preparing a written report to be distributed to panel participants giving the panel's conclusions and recommendations. If the parents are unwilling or unable to participate in the review proceedings, they are to be informed that the review was held, and advised of the contents of the discussion and the treatment plan developed. In addition, they are to be provided with a copy of the written report and advised of the time of the next review.

(c) Combining Case Review with the Dispositional Hearing. If the six-months' review and the dispositional hearing fall due within the same month, the dispositional hearing can serve as the six-months' review. However, a six-months' review proceeding may not serve as a dispositional hearing. It will not be necessary at this combination procedure to have formalized coverage of the 4 points outlined in the Case Review section under content for six-months' review proceedings. However, these case review points may be incorporated into the court report and covered during the dispositional hearing as appropriate. If the six-months' review date falls shortly after the dispositional hearing (but not within the same month), it may be feasible to schedule the review to coincide with the dispositional hearing

date. In no instance may the six-months' reviews be held longer than six months apart.

(3) Dispositional Hearings.

(a) Time Frames and Planning Options. In addition to the case review requirements, a dispositional hearing must be provided for each child not later than 18 months after placement and every 2 years thereafter unless the court of jurisdiction determines more often. This means that workers in the County Departments have the responsibility to file a petition for a dispositional hearing for each child under their supervision, whether that child is in care on an Agreement for Foster Care or in the temporary custody of the Department. The case may be brought before the court with the filing of a motion instead of a petition, or be placed on the docket without the filing of a motion or petition if either such procedure is the preference of the court or the attorney for the County Department. For children in the permanent custody of the Department, and for whom the Interlocutory order has not been issued contact, the Division of Adoption for assistance in determining the type of information to submit to the court. Dispositional hearings are for the purpose of planning the child's future status, as to whether the child should:

1. Be returned to the parents or placed with other family members;
2. Be continued in foster care or related care for a specified period;
3. Be freed for adoption; or
4. Because of exceptional circumstances, remain in foster care as a permanent plan or with a goal of independent living.

(b) Dispositional hearings are not required when:

1. The child has been placed for adoption and the placement agreement has been signed. If the adoption placement becomes disrupted and the child returns to foster care, dispositional hearings must be resumed.
2. The child is in a planned long-term foster care or related care placement and there has been an initial dispositional hearing (in line with guidelines in this section), at which the court has specified continued foster care or related home placement on a permanent basis in a particular foster family home or related home. The foster family home or related home

must be named. Foster care cases would usually involve those cases in which a written long-term foster care agreement is in effect. A copy of this agreement should be attached to the court report with an appropriate explanation in the court report. If there is doubt as to the permanency of the placement, this exception should not be taken. (Note: Children in group homes and child-care institutions must have ongoing dispositional hearings even if they are in planned long-term care in a placement specified in the court order.)

(4) Written Notice to Parents: Changes in Foster Care or Related Care Placement or Change in Visitation Arrangements.

(a) Another requirement incorporates two of the procedural safeguards needed for the protection of parents' and children's rights. Accordingly, written notice is to be given to parents under the following conditions, unless the child's health or well-being would be endangered, or unless the move is emergent, in which case telephone notice followed by written notice will be acceptable:

1. There is to be a change in the child's foster care or related care placement; or

2. There is to be a change in visitation arrangements made with the parents to see the child.

(b) When parental rights have been terminated. Notice to parents is not required when there is a change in the foster care placement. With parental rights terminated there would be no visitation arrangements with parents.

(5) The State Agency makes available for public review and inspection all statewide assessments, report of findings, and program improvement plans developed as a result of a full or partial child and family services review.

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**Statutory Authority:** The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) 45 C.F.R., Part 1355 §1355.37; "See Also" Adoption and Safe Families Act of 1997, Public Law 105-89.

**History:** Effective October 11, 1983. Emergency amendment effective October 11, 1983. Permanent amendment effective December 9, 1983. Succeedent emergency amendment effective April 8, 1988. Succeedent permanent amendment effective July 14, 1988. Succeedent permanent amendment effective September 8, 1988. Succeedent emergency amendment effective September 16, 1988. Succeedent emergency amendment effective November 22, 1988. Succeedent permanent amendment effective December 9, 1988. Succeedent permanent amendment effective

March 14, 1989. Succedent emergency amendment effective  
March 1, 1989. Succedent permanent amendment effective  
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May 3, 1990. Succedent permanent emergency effective  
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**660-5-28-.07 Procedures Applicable To Any Type Of Foster Care.**

- (1) Statement of Responsibilities.
  - (a) Of the Department and of the licensed child-placing agency:
    1. To recruit, examine and approve foster family homes.
    2. To place dependent children in foster family home care.
    3. To provide adequate information concerning each child to facilitate the daily care to be given.
    4. To supervise the care of children in foster family home care.
    5. To work with the foster family in making suitable plans for the children now and in the future.
    6. To provide the foster family specific information regarding how to contact a Department or agency representative at all times.
    7. To maintain confidentiality of foster family home records by keeping case records in files that are locked when unattended, and by restricting any disclosure of the whereabouts of the children to only the parent having legal custody or the agency having custody . . . or persons or agencies providing authorized services.
    8. To visit the foster family home whenever indicated to examine and/or to investigate, and to offer consultative services.
    9. To promote and further develop sound foster family home programs.

- (b) Of the foster family home:
  - 1. To maintain the prescribed standards/regulations.
  - 2. To carry out the recommended daily care of the child or children in the foster family home in cooperation with the Department or the licensed child-placing agency.
  - 3. To adhere to all aspects of the foster family home agreement.
  - 4. To maintain the confidentiality of information about the children and their families.
  - 5. To immediately report to the County Department or the licensed child-placing agency any knowledge of harm or threatened harm to a child's health or welfare through non-accidental means. Reports may be made by telephone or by direct oral communication.
  - 6. To give notice at least two weeks in advance of plans to voluntarily surrender the approval.
- (2) Effective April 1, 1990, certain health and education information must be reviewed, updated and given to the foster care provider(s) at the time of each placement for the child. To the extent available and accessible, the information must include:
  - (a) The names and addresses of the child's health and education providers;
  - (b) The child's grade level performance;
  - (c) The child's school record;
  - (d) Assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of the placement;
  - (e) A record of the child's immunizations;
  - (f) The child's known medical problems;
  - (g) The child's medications; and
  - (h) Any other relevant health and education information concerning the child determined to be appropriate by the agency.

(3) Medical Examination of Child Prior to Placement in Foster Care.

(a) A physical examination by a licensed pediatrician, licensed practicing physician or Medical Screening (MediKids) before a child is placed in foster care is required. When such examination cannot be made prior to the child's placement, it must be made within 10 days after placement.

(b) Payment for initial examinations made by licensed physicians can be paid for eligible children from state funds, if not available without cost to the Department.

(c) The payment to be made by the Department may be authorized up to but not exceeding the Medicaid rate.

(d) A dental examination is to be scheduled within a few weeks after the child's placement. All Medicaid eligible children are to have this dental examination under MediKids when possible.

(e) Psychological testing or psychiatric examinations are to be arranged when indicated.

(4) Medical Services During Placement.

(a) A Child Under Two Years Old.

1. The child should have monthly medical examinations up to one year of age, or as often as recommended by the pediatrician or licensed practicing physician when a pediatrician is not available.

2. If a child is eligible for Medicaid, this resource must be used.

(b) A Child Age Two or Older.

1. An annual physical examination (more frequently when recommended by a physician) is required for children two years or older.

2. Annual dental examinations are recommended. These should begin no later than three years of age.

(5) Authorization for Surgery of Other Medical Treatment.

(a) When a child in foster care is in the custody of his parents and in need of surgery or other medical treatment,

the parents must give the necessary consent. If the parents cannot be located in time, the County Department will contact the court and request an order authorizing consent by the County Department.

(b) When the County Department has been awarded temporary custody of a child by a court order which does not specify who is authorized to consent for surgery or other medical treatment, the County Department must do one of the following:  
(a) obtain a court order authorizing consent by the Department, or  
(b) have the parents give the consent.

(c) The Department will not consent to an abortion sought by any child in its custody. Department personnel cannot assist children in obtaining abortion services without a court order.

(6) Clothing.

(a) If parents are unable to provide an adequate initial supply of clothing or if the Department is unable to provide this through some other resource, the foster parents will be authorized to purchase an initial specified amount of clothing to be paid for from local public or private funds when such is available.

(b) A clothing allowance in the amount of \$20 per month is included in the monthly board payment. The foster care facility (Foster Family Board Home, Group Home, Child Care Institution) is expected to provide clothes for the child from the board payment as long as the child remains in foster care.

(7) General Principles Regarding Communication of Children in Foster Care.

(a) Children in the custody/responsibility of the Department and placed in foster care (foster family homes, shelters, group homes, child care institutions or other residential facilities, and relative caretakers) are to be permitted to communicate by telephone or mail with parents, relatives, friends, Department staff, other service providers, legal counsel, advocates, and courts unless restrictions as discussed below are applicable.

(b) All court orders regarding communication are to be followed.

(c) Neither the Department nor the foster care provider is to force a child to communicate against his will.

(d) With the exception of telephone communication to and from friends, forbidding or restricting communication by or to a child as punishment or using communication as a reward for good behavior is not allowed.

(e) Children retain the right to communicate and visit with their parents or relatives even when the rights of the child's parents have been terminated unless restrictions as discussed below are applicable.

(f) The following rules are applicable to foster home and shelter care providers:

1. The Department is to inform foster home and shelter care providers of a child's right to communication.

2. The provider may establish reasonable rules by which a child must abide.

3. Any restrictions on communication must be discussed with the child, if age appropriate, his parents, and the provider.

4. The child's individualized service plan/case plan is to specify any persons with whom the child may not communicate and any other communication restrictions which may apply. Written notice is to be given to the provider, parents and the child of the names of the persons with whom the child may not communicate and any other restrictions or revisions to the restrictions.

5. A foster home or shelter care provider may forbid a child from providing parents, relatives, or friends with the foster home's or shelter's address or telephone number for a period of up to 4 working days under the following situations:

(i) The social worker has not given the foster home or shelter information regarding the necessity of restrictions;

(ii) The foster parent or shelter otherwise lacks adequate information regarding whether any such restrictions need to be imposed; and

(iii) An alternate means of communication is provided during this time.

(g) The following rules are applicable to child care institutions, group homes and child placing agencies:

1. Child care institutions, group homes, and child placing agencies with foster homes which serve children in the custody/responsibility of the Department are to develop written policies regarding telephone and mail contacts.

2. These facilities may adopt the policies of the Department or promulgate their own as long as they are consistent with Departmental policies and provide children in care no lesser communication rights than children in foster homes approved by the Department.

3. The communication policies are to be approved by the Department, explained to all DHR children placed in the facility, and a copy of the policies provided to the parents of the children.

(h) The DHR worker is to provide to the child the names, addresses and telephone numbers of the lawyer, guardian-ad-litem and/or advocate who is representing the child in juvenile court.

(8) Telephone Contacts.

(a) A child must be afforded reasonable privacy to make and receive telephone calls.

(b) All court orders regarding telephone communication are to be followed.

(c) Foster care providers may require children and those with whom the child communicates by telephone to abide by the following reasonable rules:

1. The timing, duration and frequency of calls will be determined by the circumstances of the child, parents, and provider.

2. The provider may require callers to identify themselves.

3. The provider may require the child to give the provider notice before initiating a long distance call.

4. The provider may require the child, before initiating a call, to tell the provider the name of the person the child is calling.

5. The provider, upon request of the child, may assist the child with making telephone calls.

(d) Providers may restrict telephone communication with friends for punishment only if the imposed restriction is for a reasonable period of time and if it is consistent with the telephone restrictions a provider applies to other children in the home, including the provider's own children.

(e) If a teenager has a source of income, the provider may require him/her to reimburse the provider for long distance calls to friends. Such reimbursement practices must be consistent with those which the provider applies to other children in the home, including the provider's own children.

(f) The following rules apply to telephone contacts with legal counsel, advocates and the court:

1. The provider's right to establish reasonable rules for telephone contacts with parents/relatives also apply to these type calls.

2. Upon request, a child's attorney(s) and advocate(s) are to be provided the telephone number and address of where the child is placed.

3. Unless there is a situation that the child reasonably believes is an emergency, the worker and provider may restrict the child to making one call per day to an attorney, advocate or court. The child may leave a message for him/her to return the call.

4. There is no limit on the number of calls the child can receive from legal counsel, advocate or court.

(9) Telephone Restrictions.

(a) Providers may restrict telephone calls to and from a child in circumstances in which information, documented in the child's record, make it reasonable to believe that the child's physical or emotional health may be endangered by making or receiving calls; i.e., that the telephone contact would undermine or defeat the child's case plan or the child's safety would be placed at risk.

(b) Restrictions are to be no greater than necessary to prevent the endangerment.

(c) There are 3 kinds of restrictions which a provider may impose:

1. Monitoring.

(i) If a provider monitors; i.e., listens in on a call, the parties to the conversation are to be informed at the beginning of the call and told the reason for the monitoring.

(ii) Situations where monitoring might be needed are:

(I) When ordered by the court.

(II) When there is reason to believe that the caller is threatening, verbally abusing the child, or using sexually provocative language, or encouraging the child to engage in acts which would endanger the child such as illegal behavior or running away.

(III) When there is reason to believe that the caller is attempting to persuade the child to recant statements regarding alleged abuse or neglect.

2. Limits on Calls To/From Certain Persons.

(i) Factors/situations which may warrant not allowing a child to make calls to or receive calls from certain persons are as follows:

(I) The provider, in monitoring the telephone conversations, has heard the person threaten the child or use sexually provocative language.

(II) The child has related to the provider, worker, or another person a telephone conversation indicating that the person threatened the child or used sexually provocative language.

(III) When there is reason to believe that the caller is attempting to persuade the child to recant statements regarding alleged abuse or neglect.

(ii) The person, other than a friend of the child, to whom the restriction is to apply is to be given written notice of the restriction.

(iii) A provider may temporarily restrict telephone calls to a child from a parent, relative or friend when that person has repeatedly demonstrated that he will not abide by reasonable rules regarding the time, duration and frequency of calls.

(iv) The worker and provider are to frequently reassess any restriction imposed and modify or eliminate the restriction when it is no longer needed to protect the child or to promote reasonable compliance with established rules.

3. Prohibiting Disclosure of Provider's Telephone Number.

(i) The Department may prohibit disclosure of the provider's telephone number to certain persons when there is reason to believe that the child or provider would be endangered by those persons having knowledge of the provider's telephone number.

(ii) An alternate means is to be provided for the person to communicate with the child by telephone on a regular basis.

(10) When the child is placed in foster care in a location which will require long distance calling, the Department is responsible for paying for these long distance calls initiated by children to persons covered by this policy as provided below.

(a) The Department will pay for long distance calls for up to a limit of 30 minutes per day to parents or significant family members or 15 minutes to persons other than parents or significant family members. The Department's obligation is limited to 30 minutes daily for all long distance calls combined.

(b) In exceptional circumstances, such as when a child's parent is in a foreign country, departure from the 30 minutes per day limit may be permitted.

(c) Children have the right to make or receive long distance calls paid by someone other than the Department as long as the calls are to and from persons covered by this policy and as long as they are in accordance with reasonable rules pertaining to the time, frequency and duration of calls.

(11) Written Communication.

(a) A child in foster care is free to send and receive sealed mail unless restricted in accordance with policy outlined below.

(b) All court orders regarding mail communication are to be followed.

(c) Mail from a child to identifiable attorneys, guardians-ad-litem, CASA's, other legal advocates, judges or courts and mail sent to a child from such persons is to be delivered unopened.

(d) The Department is responsible for paying for the cost of mail which is sent by children in foster care to persons covered by this policy.

(e) A teenager with a source of income may be required to pay for postage for mail to friends provided the requirement is consistent with the practice which the provider applies to other children in the home, including the provider's own children.

(f) The child's individualized service plan/case plan is to specify any parent, relative or friend with whom the child may not communicate by mail and any other restrictions on mail communication.

(g) Providers serving a child are to be given written notice of any person with whom the child may not communicate and any other mail restrictions or changes in mail communication.

(h) Providers may read mail when a child requests a specific piece of mail be read or when a child is capable of requesting assistance because of a physical or mental disability.

(i) The provider may, upon a child's request, assist the child in preparing mail to send to a parent, relative, or friend, attorney, advocate, or court.

(12) Interception of Mail.

(a) Providers may intercept and read specific pieces of mail in circumstances in which information, documented in the child's individualized service plan/case plan makes it reasonable to believe that the child's physical or emotional health may be endangered, i.e., that the goals of the child's individualized service plan/case plan would be defeated or undermined or the child's safety would be placed at risk by the language or other content of the mail.

(b) The following are situations where mail may endanger a child and, therefore, may be intercepted and read:

1. Mail which the court orders to be intercepted.
2. When there is reason to believe that the mail contains language which is attempting to persuade a child to recant statements regarding alleged abuse or neglect.
3. Mail from a person specifically restricted from communicating with the child.

4. When there is reason to believe the mail may contain language which is threatening, sexually provocative, or encouraging the child to engage in acts which would endanger the child such as illegal behavior or running away.

(13) Censorship or Withholding Mail.

(a) All court orders regarding censorship are to be followed.

(b) A provider may, after opening and reading mail in accordance with policy as stated above, censor all or any portion of the mail that would endanger the child's physical and emotional health.

(c) The provider may open, in the presence of the child, any mail that is reasonably suspected of containing contraband, remove the contraband if found, and give the remainder of the mail to the child unless it is to be read, censored, or withheld as discussed above.

(d) The provider is to notify the worker immediately of any mail that has been censored and send the worker any mail that has been withheld.

(e) If the worker concurs with the censorship or withholding of mail, the child's record is to be documented and the withheld mail maintained in the child's record; if the censorship or withholding was inappropriate, the provider is to be directed to give the mail or appropriate parts to the child immediately.

(f) The sender of mail which is withheld or read is to be notified of the action.

(g) The worker and provider is to frequently reassess any restriction imposed on mail communication and modify or eliminate the restriction when it is no longer needed to protect the child from endangerment.

(14) Withholding Provider's Address.

(a) When circumstances, documented in the individualized service plan/case plan, indicate that there is reason to believe that the child or provider will be endangered by the provider's address being given, the worker may decide that specific parents, relatives or friends not be given the provider's address.

(b) The person will be permitted to send mail for the child to the County Office where upon the worker will censor according to guidelines above, if needed, and promptly forward or deliver the mail to the child.

(15) Visiting

(a) Visiting with parents, family members and friends is to be promoted for every child in out-of-home care unless visiting:

1. Places the child's safety at risk;
2. Substantially inhibits attainment of the goals for the protection of the child or the permanency goal of the case plan; or
3. Subjects the child to intimidation regarding investigative statements or court testimony.

(b) Visits with parents and other family members may not be used as rewards or punishment.

(c) Visits are to take place in the most normalized, family-like setting that meets the child's need for safety.

1. Visits should be scheduled away from the offices of the County Department unless visits would place the child's safety at risk or the child and visitor request or agree that visits occur at the county offices.

2. Visits may occur in the foster home, parent's or relative's home or site of a special event.

(d) The Department of Human Resources social worker does not need to arrange or be present at visits unless:

1. Requested by the child or visitor;
2. The case plan requires it; or
3. If needed to protect the child.

(e) The Department of Human Resources social worker in collaboration with the age-appropriate child, parents, and provider may impose restrictions on visiting.

1. Court orders regarding restrictions on visiting are to be followed. The Department should seek to have court orders

lifted or modified if they are inconsistent with the case plans for the child.

2. Restrictions may be imposed when visiting:

(i) Places the child's safety at risk;

(ii) Substantially inhibits attainment of the goals for the protection of the child or the permanency goal of the case plan; or

(iii) Subjects the child to intimidation regarding investigative statements or court testimony.

3. Visits may also be temporarily restricted when necessary to stop repeated violations of the reasonable rules of the provider.

4. Restrictions on visiting include:

(i) Prohibiting or terminating visits;

(ii) Requiring that visits be supervised;

(iii) Limiting visits.

5. Supervision of Visits.

(i) When supervision of visits is required, it must be provided in the most normalized, least restrictive manner and setting that provide protection for the child.

(ii) Supervision of visits may be provided by Department staff, foster parents, staff of a residential facility or other designated person.

6. If visits with parents are prohibited, the child must be provided alternate opportunities for contact unless restricted in accordance with telephone and mail policy [Refer to this rule, subparagraphs (6) through (13)].

7. Restrictions on visiting are to be lifted when they are no longer needed to protect the child.

(16) Financial Procedures.

(a) Board payments are to be made to foster care facilities for children for whom the County Department has custody or responsibility for planning based on the level of care needed by the child. Payment may consist of a board payment only

or a combination of board payment and a difficulty of care supplement.

(b) Level One difficulty of care payments are made to foster parents for children who meet the criteria for specialized foster home care. The criteria are: the child must be eligible for Title XX Foster Care Services, as either an AFDC recipient, SSI recipient, or Income Eligible; be in the custody of the Department, or under supervision of the Department; and in addition must meet one or more of the following:

1. Be a child with a physical handicap;
  2. Be a child who is emotionally disturbed;
  3. Be a child who is mentally retarded;
  4. Be a child with pronounced behavior problems;
- and/or
5. Be a child who is unfamiliar with American culture or language.

(c) The payment for foster care is dependent on the age of the foster child.

(d) In addition, the County Department may authorize a Level Two difficulty-of-care payment for nursing care services which are being provided continuously to a child with an extreme illness or severe disabilities, excluding children in residential treatment facilities and SSI children who receive a personal care supplement.

(e) Level Three difficulty-of-care payments may be made for children who qualify for medically fragile ortherapeutic foster care.

(1) Medically fragile children have a condition diagnosed or recognized by a physician that can be volatile and change suddenly resulting in a life-threatening situation. Medically fragile children have special health care needs that either require some form of expertise to maintain a stable medical status; or, are so unstable that frequent medical intervention and/or hospitalizations are needed. Foster care providers for medically fragile children provide a specialized service based on the child's individualized needs that are beyond "ordinary parental duties."

(2) Therapeutic foster care is provided in a foster home that is equipped and trained to provide care for the

emotionally and/or behaviorally disturbed children. It is the least restrictive community based care provided for emotionally/behaviorally disturbed children. Children receiving therapeutic foster care must have a DSM-IV psychiatric, emotional or behavioral diagnosis and an identifiable special need related to that diagnosis that requires care beyond "ordinary parental duties."

(f) If the child is 18 and is not involved in pursuing an educational or training goal, payment should be terminated. If there are extenuating circumstances the worker and supervisor may make the decision to continue board payments for a time-limited period based on documentation in the record of need.

(g) ACFC payment must be terminated when a child in foster care becomes 19 years old with the following exceptions:

1. Payment may continue for any 19-year old in foster care who becomes 19 during the school year and who will graduate from high school at the end of that school year.

2. Payment may continue for any 19-year old in foster care who because of special circumstances, is in need of continued care in order to develop independent living skills. Payment must be terminated when the child reaches age 21. Approval for such payment is to be given only after review by the Family and Children's Services Division.

(h) If a foster child enters a college, university, or vocational training school and lives away from the foster home during the week (such as in a dormitory), the ACFC board payment can only be made for the actual number of days in the home. The total monthly amount budgeted for clothing and medicine chest supplies is then added to the prorated amount for room and board.

(i) FCMP - Eligibility.

1. A child may be eligible for FCMP, i.e., payment from IV-E funds, if he is removed from his own home by court order because of conditions that are contrary to his well-being and placed in foster care. Foster care includes the home of a relative other than the parents, if the relative's home is approved as meeting Minimum Standards. In addition, a child must meet all factors of eligibility for AFDC as specified in Title IV-A and IV-E State Plans.

2. A child may also be eligible for FCMP if removed from his home by voluntary placement agreement (PSD-BFC-731, Agreement for Foster Care) in accordance with the requirements of P.L. 96-272.

(j) EAFC - Eligibility.

1. If a child is not eligible for a IV-E (FCMP) foster care payment, he may be eligible for an EAFC - Emergency Assistance Foster Care (Title IV-A) payment.

2. To be eligible for EAFC, the child must be under the age of 21 and must have resided with a parent or other specified relative (as defined in the AFDC program) at least for one day or night within the last six months.

3. The family's income (including the child's) must be less than two times the median income per year for a family.

4. A child may be eligible for EAFC for up to 12 continuous months. If the child and family were already authorized for in-home services under the Emergency Assistance Program (Refer to Chapter 660-5-33) at the time for EAFC the child entered foster care, the child would be eligible for foster care only for the period of time remaining in the 12 months eligibility period for Emergency Assistance.

(k) ACFC - Eligibility.

1. A child may be eligible for ACFC if it is determined that he needs placement outside of his own home and is not eligible for FCMP. The child may be in the custody of the Department or the Department may have responsibility for planning either by direction of the court or by an agreement with parents or individuals holding custody.

2. The child may be eligible for ACFC payment in a relative's home (a relative within the specified degree of relationship for ADC) if the child has been removed from his home by court order and meets all conditions of eligibility for FCMP except for deprivation.

3. If a child is in the home of a relative who does not come within the specified degree of relationship as required by ADC, that person (for the purpose of ACFC payment) would be considered unrelated.

(l) Children in Foster Care Who Have Other Income.

1. All contributions, benefits (RSDI, VA, income from parents, etc.) and other funds must be applied to the foster care payment.

2. The only funds which do not have to be applied to the board payment and which can be held for special needs are gifts, non-recurring payments or lump sum payments not representing retroactive monthly payments and which do not exceed \$1,000 within any twelve months' period. Any excess over \$1,000 within any twelve months' period must be applied against the ACFC payment.

3. Money from lump sum payments, representing retroactive monthly payments (such as RSDI or VA) is to be used to reimburse the Department for previous board payments made for the period of entitlement covered by the lump sum payment. Funds available after reimbursement of board payments are to be used to reimburse local funds for expenditures made on behalf of child.

4. Funds not in excess of \$1,000 which are on hand after reimbursement of both the Department and local funds are to be retained in a private earmarked account designated for the child. Funds in excess of \$1,000 must be applied against the ACFC payment.

5. The County Department is to apply to be made payee for all children in foster care receiving benefits (RSDI, VA, etc.) who are in the custody of the County Department, except in those instances when guardianship has been established or is required.

6. The State Department of Human Resources will be designated payee for children committed to the Department.

7. Foster family board parents are not to be payee for any children cared for in their home.

8. When the County Department is the designated payee for benefits to a foster child, or when contributions are received from parents or guardians for a foster child, the benefits are to be deposited in the local funds account earmarked for the particular child. Payments are identified and disbursed accordingly.

(m) Children in foster care may have a guardian or conservator appointed if the child has property or income such as an inheritance or an insurance settlement.

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**Statutory Authority:** Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, 42 U.S.C. 1397; Title IV-A of the Social Security Act, Section 504 [42 U.S.C. 606] (e)(1); 45 CFR 233.120; Title IV-B and Title IV-E of the Social Security Act, 42 U.S.C. 1302;

Adoption Assistance and Child Welfare Act of 1980, P.L. 96-272; Code of Ala. 1975, Title 38, Chapter 2.

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