

## **CABINET FOR HEALTH AND FAMILY SERVICES**

### **Department for Community Based Services**

#### **Division of Protection and Permanency**

#### **(New Administrative Regulation)**

### **922 KAR 1:315. Standards for child-placing agencies placing children who are not in the custody of the cabinet.**

RELATES TO: KRS 194A.060, 199.011, 199.470, 199.510, 199.520, 199.572, 199.640, 273.161(8), 600.020, 620.030, Chapter 625

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5)(a), 605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.640(5)(a) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies relating to the health and safety of all children in care, including children who are not in the custody of the cabinet. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. This administrative regulation establishes basic standards for child-placing agencies who are placing children who are not in the custody of the cabinet.

#### Section 1. Definitions.

(1) "Adequate supervision" means adult oversight of a child's activities with consideration of the child's past and current:

- (a) Incidents;
- (b) High risk behaviors; and
- (c) Needs.

(2) "Adoption" means the legal process by which a child becomes the child of a person or persons other than biological parents.

(3) "Adoptive home" means a home in which the family has been approved by the child-placing agency to adopt a child.

(4) "Aftercare" means services provided to the child after discharge from a child-placing agency.

(5) "Applicant" means an individual or a family subject to approval by the child-placing agency as a:

- (a) Foster home; or
- (b) Adoptive home.

(6) "Board of directors" is defined by KRS 273.161(8).

(7) "Case management" means a process whereby a state agency or child-placing agency assesses the individualized needs of a child or family, arranges for the provision of services, and maintains documentation of actions and outcomes.

(8) "Child" means a child as defined by KRS 199.011(4) and 600.020(9);

(9) "Child-placing agency" is defined by KRS 199.011(6).

(10) "Executive director" means the person employed by the board of directors to be responsible for the overall administration and management of a child-placing agency.

(11) "Foster home" means:

- (a) A "foster family home" as defined by KRS 199.011(10) and 600.020(30), if referring to a physical structure; or

- (b) Any individual approved as a foster parent by the child-placing agency, if referring to an individual.
- (12) "Home study" means an assessment done on a prospective foster or adoptive home by a social services worker that meets the requirements specified in Section 4(3) of this administrative regulation.
- (13) "Individual treatment plan" or "ITP" means a plan of action developed and implemented to address the needs of a child.
- (14) "Placement" means:
- (a) The physical relocation of a child removed from the child's home of origin with a provider of out-of-home services; or
  - (b) A foster or adoptive home that has been approved by completing an application process, home study, and required preparation.
- (15) "Qualified mental health professional" is defined by KRS 600.020(52).
- (16) "Respite care" means temporary care provided by another individual or family that meets requirements specified in Section 7 of this administrative regulation to meet the needs of the child or provide relief to a foster care parent with the expectation that the child shall return to the foster home.
- (17) "Social services worker" means a person retained by a child-placing agency who meets the qualifications as specified in 922 KAR 1:310, Section 2(4)(c).
- (18) "Supervision plan" means a written supplement to a child's ITP, developed pursuant to Section 6(7)(b)2 of 922 KAR 1:310, that details a child-placing agency's roles and responsibilities to assure adequate supervision of a child in the agency's care, including those roles and responsibilities delegated to a foster home parent.

Section 2. Administration and Operation. A child-placing agency that places a child pursuant to this administrative regulation shall also meet the requirements established in 922 KAR 1:310, Section 2.

Section 3. Interstate Placement.

- (1) A child-placing agency that accepts a child from another state or places a child outside of Kentucky shall meet the requirements established in in 922 KAR 1:310, Section 3.
- (2) A child-placing agency that is assisting with an Interstate Compact Placement for a child who is placed due to a disrupted or dissolved adoption shall:
- (a) Assist in the obtainment of a therapeutic recommendation from a qualified mental health professional regarding the child being placed into the proposed placement;
  - (b) Ensure that the prospective adoptive parents have spoken with the qualified mental health professional that has been providing services to the child;
  - (c) Assist in the development of a thorough transition plan for the child adhering to the child's qualified mental health provider's recommendations;
  - (d) Assist in the procurement of services and providers within the receiving state, prior to the placement of the child;
  - (e) Provide a minimum of monthly face-to-face supervision in the home and support to the child and family if placed in Kentucky until the finalization of the adoption;
  - (f) Continually assess for any safety risks within the home and provide a written plan for safety, if necessary or requested; and
  - (g) Ensure that the child is placed for at least six (6) months prior to finalization of the adoption.

Section 4. Evaluation of an Applicant. A child-placing agency's staff shall recruit a prospective foster or adoptive home in accordance with 922 KAR 1:310, Section 4.

Section 5. Orientation and Preparation of a Foster Home for a Child not in the Custody of the Cabinet.

(1) A child-placing agency shall meet the requirements established in 922 KAR 1:310, Section 5(1)(a) through (c).

(2) Training provided in accordance with 922 KAR 1:495 may be utilized for a foster home that cares for a child not in the custody of the cabinet if the governmental agency or individual with oversight of the child approves the training.

Section 6. Expectations for a Foster Home Caring for a Child not in the Custody of the Cabinet. An approved foster home shall:

(1) Provide a child placed by the child-placing agency with a family life, including:

- (a) Nutritious food;
- (b) Clothing comparable in quality and variety to that worn by other children with whom the child may associate;
- (c) Affection;
- (d) Life skills development;
- (e) Recreational opportunities;
- (f) Education opportunities;
- (g) Nonmedical transportation;
- (h) Opportunities for development consistent with the child's religious, ethnic, and cultural heritage;
- (i) Adequate supervision;
- (j) Independent living services for a child twelve (12) years of age or older; and
- (k) Refraining from smoking in the direct presence of a child for whom their physician recommends, in writing, a smoke-free environment.

(2) Permit a child-placing agency and staff of a state agency to visit the home;

(3) Share with the child-placing agency any information about the child placed by the child-placing agency;

(4) Notify the child-placing agency fourteen (14) calendar days prior if the home is approved to provide foster or adoptive services through another private child-placing agency;

(5) Notify the child-placing agency prior to:

- (a) Leaving the state with a child placed by the child-placing agency for more than twenty-four (24) hours; or
- (b) Allowing a child placed by the child-placing agency to be absent from the foster home for more than twenty-four (24) hours;

(6) Report immediately to the child-placing agency through which the child is placed if there is:

- (a) A hospitalization or life-threatening accident or illness;
- (b) An absence without official leave;
- (c) A suicide attempt;
- (d) Criminal activity by the child;
- (e) Death of any member in the household;
- (f) A child's possession of a deadly weapon;
- (g) Change in address;
- (h) Change in the number of people living in the home;
- (i) Significant change in circumstance in the foster home; or
- (j) Failure of the foster child or foster parent to comply with the supervision plan;

(7) Cooperate with the child-placing agency if child-placing agency staff arranges for a child, placed in the foster home by the child-placing agency, and the child's birth family regarding:

- (a) Visits;
- (b) Telephone calls; or
- (c) Mail;

- (8) Surrender a child or children to the authorized representative of the child-placing agency which has custody of the child, upon request;
- (9) Keep confidential all personal or protected health information as shared by the child-placing agency, in accordance with KRS 194A.060 and 45 C.F.R. Parts 160 and 164, concerning a child placed in a home or the child's birth family;
- (10) Support an assessment of the service needs, including respite care, and the development of an ITP, including the supervision plan, of a child placed by the child-placing agency;
- (11) Participate in a planning conference concerning a child placed by the child-placing agency;
- (12) Cooperate with the implementation of the permanency planning established for a child placed by the child-placing agency;
- (13) Facilitate the delivery of medical care to a child placed by the child-placing agency as needed, including:
  - (a) Administration of medication to the child and daily documentation of the administration; and
  - (b) Physicals and examinations for the child;
- (14) Treat a child placed by the child-placing agency with dignity;
- (15) Report suspected incidents of child abuse, neglect, and exploitation in accordance with KRS 620.030; and
- (16) Comply with general supervision and direction of the child-placing agency concerning the care of the child placed by the child-placing agency.

Section 7. Respite for a Foster Home Caring for a Child not in the Custody of the Cabinet.

- (1) The child-placing agency shall develop written policies and procedures to address the respite care needs of a child or a foster parent.
- (2) Respite care shall not be used as a means of placement for a child.
- (3) Respite care shall be in accordance with 922 KAR 1:310, Section 3(2).
- (4) The child-placing agency shall not approve a respite care provider unless the provider meets requirements specified by 922 KAR 1:310, Section 4(3)(b), (d), and (m) through (u).
- (5) A respite care provider shall:
  - (a) Receive, from the agency or foster parent, preparation for placement of a child, including information regarding the child's needs and the supervision plan of the child;
  - (b) Provide adequate supervision in accordance with the child's supervision plan;
  - (c)
    1. Give relief to a foster parent caring for a child; or
    2. Provide for a de-escalation period for a child;

Section 8. Private Foster Placement Process. A child-placing agency shall follow the procedures established by this section if a private placement is conducted.

- (1) For a child being placed with a child-placing agency, the child-placing agency shall obtain an:
  - (a) Agreement for voluntary care signed by the custodian; or
  - (b) Order from a court of competent jurisdiction placing the child into the custody of the child-placing agency.
- (2) The child-placing agency shall:
  - (a) Complete an intake assessment of the strengths and needs of the child and the child's family of origin; and
  - (b) Ascertain the appropriateness of the referral for the child.
- (3)
  - (a) The child-placing agency shall develop an ITP individualized for a child and the child's family based on an individualized assessment of the child's and family's needs:

1. Within thirty (30) days of the child's placement with the child-placing agency; or
  2. Prior to the child being placed out of state.
- (b) An exception to the requirement specified in paragraph (a) of this subsection may be made for a child:
1. Under the age of twelve (12) months; and
  2. With no extraordinary needs.
- (c) The assessment shall be revised as needed.
- (d) The assessment and ITP shall include the type and extent of services to be provided to the child and the child's family.
- (e) Assessment of the child shall include consideration of the following history:
1. Behavioral health treatment;
  2. Trauma;
  3. Risk for harm to self or others; and
  4. Past behaviors or safety issues that could increase the likelihood of placement disruption.
- (4) Unless not in the best interest of the child, the child, parent, and foster parent shall be included in developing the assessment and ITP.
- (5)
- (a) The foster home selected for placement shall be the most appropriate home based on the child's needs and the strengths of the foster family.
  - (b) The foster home shall be located as close as possible to the home of the family of origin, in order to facilitate visiting and reunification.
- (6)
- (a) The social services worker and the foster parent shall work collaboratively to prepare the child prior to the placement.
  - (b) Unless a circumstance precludes preparation and the circumstance is documented in the case record, a child shall have a period of preparation prior to the placement in the foster home.
- (7) The child-placing agency shall:
- (a) Provide or arrange for services to support reunification for a child for whom family reunification is the plan;
  - (b) Assess and document the parent's capacity for reunification quarterly;
  - (c) Provide for review of the child in order to evaluate the progress toward achieving the child's permanency plan every six (6) months; and
  - (d) Assure that foster care continues to be the best placement for the child.
- (8)
- (a) Services to the family of origin and to the child shall be adapted to their individual capacities, needs, and difficulties.
  - (b) A reasonable effort shall be made to return the child to the family of origin.
- (9) Planning for the child regarding treatment program matters, including visitation, health, education, and permanency plans, shall be developed in collaboration with the:
- (a) Family of origin;
  - (b) The child's qualified mental health provider;
  - (c) Social services worker; and
  - (d) Foster home.
- (10)
- (a) The child-placing agency shall work with a foster home to promote stability and avoid disruption for a child, to include:
    1. Services specified in Section 6(1) through (3), and (7) through (11) of 922 KAR 3:010; and
    2. Reevaluation of the foster home in accordance with Section 9 of this administrative regulation.

(b) A request for the removal of a child from a foster home shall be explored immediately and shall be documented by the social services worker.

(c) If disruption is unavoidable, the child-placing agency and foster home shall develop a plan for the smooth transition of the child to a new placement.

(11)

(a) Preparation for the return of a child to the family of origin shall be supervised by a social services worker.

(b) The family shall participate in planning for the child's return.

(c) If regular contact with the child's family does not occur, a plan for the child's return shall include at least one (1):

1. Prior visit between the child and the family; and

2. Preliminary visit of the child to the child's family home.

(12) The child-placing agency shall recommend a plan for aftercare services for a child and the child's family.

Section 9. Reevaluation of an Approved Foster or Adoptive Home. A child-placing agency shall reevaluate an approved foster home or approved adoptive home awaiting placement in accordance with 922 KAR 1:310, Section 14.

Section 10. Maintenance of a Foster Care Record. The child-placing agency shall maintain a record on each child and foster home in accordance with 922 KAR 1:310, Section 16.

Section 11. Orientation and Preparation of an Adoptive Home for a Child not in the Custody of the Cabinet. For a child not in the custody of the cabinet, a child-placing agency shall:

(1) Prepare and maintain the orientation and preparation curriculum on file;

(2) Provide orientation and preparation to a prospective adoptive home in accordance with the child-placing agency's policies and procedures to include the following:

(a) An example of an actual experience from a parent who has adopted a child;

(b) Challenging behavior characteristics of an adoptive older child;

(c) Referral resources for a developmental delay;

(d) Transition issues with focus on stages of grief, and a honeymoon period, if applicable;

(e) Loss and the long-term effects on a child;

(f) Attachment and identity issues of the child;

(g) Cultural competency;

(h) Medical issues including referral resources;

(i) Family functioning, family values, and expectations of an adoptive home;

(j) Identification of changes that may occur in the family unit upon the placement of a child to include:

1. Family adjustment and disruption;

2. Identity issues; and

3. Discipline; and

(k) Financial assistance available to an adoptive home; and

(3) Ensure that an approved adoptive home awaiting the placement of a child receives adoptive home training annually in accordance with the child-placing agency's established policies and procedures.

Section 12. Adoption Placement Process for a Child not in the Custody of the Cabinet.

(1) A child shall not be placed for adoption until the:

(a) Adoptive home has been approved; and

(b)

1. Parental rights of the mother, legal or birth father, and putative father of the child, if applicable and not the same person as the legal father, are terminated by a circuit court order entered pursuant to KRS Chapter 625; or

2. The mother, legal or birth father, and putative father of the child, if applicable and not the same person as the legal father, have consented to placement with the child-placing agency for the purpose of adoption placement.
- (2) A child's parent shall not be persuaded to terminate parental rights by a promise of financial aid or other consideration.
- (3)
  - (a) A child-placing agency licensed by the cabinet shall not use the authority authorizing the agency to place a child for adoption to facilitate an adoptive placement planned by a doctor, lawyer, clergyman, or person or entity outside the child-placing agency.
  - (b) The child-placing agency shall comply with provisions of 922 KAR 1:010.
- (4) The child-placing agency shall obtain the following:
  - (a) A developmental history of the adoptive child to include:
    1. Birth and health history;
    2. Early development;
    3. Characteristic ways the child responds to people and situations;
    4. Any deviation from the range of normal development;
    5. The experiences of the child prior to the decision to place the child for adoption;
    6. Maternal attitude during pregnancy and early infancy;
    7. Continuity of parental care and affection;
    8. Out-of-home placement history;
    9. Separation experiences; and
    10. Information about the mother, legal father, and putative father, if applicable and not the same person as the legal father, and family background:
      - a. That may affect the child's normal development in order to determine the presence of a significant hereditary factor or pathology; and
      - b. Including an illness of the biological mother or father;
  - (b) A social history of the biological or legal parent, to include:
    1. Name;
    2. Age;
    3. Nationality;
    4. Education;
    5. Religion or faith; and
    6. Occupation;
  - (c) Information obtained from direct study and observation of the child by a:
    1. Social services worker; and
    2. Physician or other health professional;
  - (d) If indicated, information obtained from direct study and observation of the child by a:
    1. Foster parent;
    2. Nurse;
    3. Psychologist; or
    4. Other consultants; and
  - (e) Information from the mother, if possible, identifying the biological father, or legal father, if different from the biological father, for the purpose of:
    1. Determining the father's parental rights; and
    2. Establishment of possible hereditary endowments.
- (5) If either biological or legal parent is unavailable, unwilling, or unable to assist with the completion of information necessary to comply with KRS 199.520 and 199.572, the child-placing agency shall document information, to the extent possible, from the existing case record.

(6) Prior to finalization of the adoptive placement, a licensed physician or other health professional shall make a medical examination to determine:

- (a) The state of the child's health;
- (b) Any significant factor that may interfere with normal development; and
- (c) The implications of any medical problem.

(7) The condition under which an adoptive home agrees to accept the child shall be decided upon, prior to placement of the child. The written agreement between the child-placing agency and the adoptive home shall embody the following provisions:

(a) The adoptive home shall agree to:

1. Comply with KRS 199.470;
2. File an adoptive petition at a time agreeable to the adoptive home and the child-placing agency; and
3. Permit supervision by the child-placing agency in accordance with the child-placing agency's policies and procedures:
  - a. After placement; and
  - b. Preceding a final judgment of adoption by the circuit court;

(b) The child-placing agency shall be responsible for providing the adoptive home with written information regarding the child's:

1. Background;
2. Medical history;
3. Current behavior; and
4. Medical information necessary to comply with KRS 199.520(4)(a); and

(c) The adoptive home and the child-placing agency shall agree that the child may be removed from the placement, at the request of either party, before the filing of the adoptive petition.

(8)

(a) Preplacement visits shall be arranged for the adoptive home and a child.

(b) The pattern and number of visits shall be based on the child's:

1. Age;
2. Development; and
3. Needs.

(9) During preparation, the child-placing agency shall discuss the child's readiness to accept the selected placement with the child, in accordance with the child's age and ability to understand.

(10)

(a) Unless the child-placing agency and, if applicable, the state agency which has custody of a child belonging to a sibling group, determines that it is more beneficial for siblings to be placed in separate adoptive homes, siblings who have had a relationship with each other shall be placed together.

(b) If siblings have been separated in placements:

1. The case record shall reflect a valid basis for the separation;
2. The decision to separate siblings shall be made by the executive director of the child-placing agency; and
3. Continued contact between siblings shall be maintained, if possible.

(11) A child-placing agency shall comply with Section 6(1)(b) of 922 KAR 1:310 during the process of placing a child in a prospective adoptive home.

(12) If a prospective adoptive home is awaiting an international adoption, the child-placing agency shall conduct a reevaluation of the home once every eighteen (18) months.

Section 13. Supervision of an Adoptive Placement of a Child not in the Custody of the Cabinet.

(1) For a child not in the custody of the cabinet, the child-placing agency placing a child shall remain responsible for the child until the adoption has been granted. This responsibility shall involve the following:

- (a) A minimum of two (2) meetings by the social services worker with the child and the adoptive home, including both adoptive parents if not a single parent adoption, one (1) visit of which shall be in the adoptive home before filing of the adoption petition;
- (b) The continuation of case management, visits, and telephone contacts based upon the needs of the child until the adoption is legally granted; and
- (c) Awareness of a change in the adoptive home including health, education, or behavior.

(2) For a placement made through the Interstate Compact on the Placement of Children, supervision shall occur in accordance with Section 3 of this administrative regulation.

(3) The child-placing agency shall:

- (a) Provide information pursuant to KRS 199.510, as necessary to report to the court to proceed with adoption;
- (b) Prepare and provide the original confidential report to the court; and
- (c) Forward to the cabinet a copy of:
  - 1. The confidential report that was provided to the court; and
  - 2. Information required by KRS 199.520 and 199.572.

(4) If the court finds the adoptive home to be unsuitable and refuses to grant a judgment, the child-placing agency shall remove the child from the home.

Section 14. Maintenance of Adoptive Case Record. (1) The child-placing agency shall maintain a case record in accordance with 922 KAR 1:310, Section 17.

Section 15. Closure of an Approved Foster or Adoptive Home. (1) A child-placing agency shall close a foster or adoptive home in accordance with 922 KAR 1:310, Section 18.

*MARTA MIRANDA-STRAUB, Commissioner*  
*ERIC C. FRIEDLANDER, Secretary*

APPROVED BY AGENCY: February 22, 2022

FILED WITH LRC: March 1, 2022 at 9:05 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 23, 2022, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by May 16, 2022, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until May 31, 2022. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.