

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Amendment)

922 KAR 1:100. Public agency adoptions.

RELATES TO: KRS 194A.060(1), 199.011(4), (10), 199.430(3), 199.520, 199.525, 199.570, 199.572, 199.575, 202B.010(12), 600.020(30), (52), (63), 605.090, 615.030, 620.050, 620.360, 625.045, 625.108, 45 C.F.R. 1355-1357, 25 U.S.C. 1901-1911, 42 U.S.C. 620-620b, 622(b)(9), 629-629i, 670-679b, 1996, 1996b

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to establish policies and operate programs to protect, develop, and maintain the health, dignity, integrity, and sufficiency of the citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 199.472 requires the cabinet to establish criteria for the public agency adoption of children in the custody of the cabinet. This administrative regulation establishes the procedures for public agency adoptions.

Section 1. Definitions.

- (1) "Approved adoptive parent" means a family approved in accordance with:
 - (a) 922 KAR 1:310;
 - (b) 922 KAR 1:350; or
 - (c) Section 6 of this administrative regulation.
- (2) "Cabinet" is defined by KRS 199.011(3).
- (3) "Child-focused recruitment model" or "C.F.R.M" means a program for the recruitment of an adoptive family in accordance with Section 2 of this administrative regulation by cabinet staff for a child in the custody of the cabinet whose adoptive placement has not been identified.
- (4) "Fictive kin" is defined by KRS 199.011(9).
- (5) "Foster family home" is defined by KRS 199.011(10) and 600.020(30).
- (6) "Home study" means an evaluation conducted in accordance with the requirements of the state where the home is located, to determine the preparation and suitability of a prospective adoptive parent, including the home environment, to receive a child for the purpose of adoption.
- (7) "Inquiring adoptive parent" means an individual who has submitted an inquiry to potentially be considered as a specific child's adoptive parent.
- (8) "Kentucky Adoption Profile Exchange" or "K.A.P.E." means a program administered by the cabinet to promote adoption awareness and child-specific recruitment for children legally free for adoption without an identified adoptive home.
- (9) "Open adoption" means an agreement between an adoptive parent and an adopted child's biological or legal parent regarding communication or contact with the child.
- (10) "Pre-adoptive placement" means a home, approved by the cabinet, where a child legally free for adoption is placed prior to adoption finalization.
- (11) "Pre-placement conference" means a meeting conducted by cabinet staff with a prospective adoptive parent that fulfills requirements specified in Section 4 of this administrative regulation.
- (12) "Prospective adoptive parent" means an individual who has submitted an inquiry and been deemed by the cabinet to be a potential adoptive match for a child .
- (13) "Qualified mental health professional" or "QMHP" is defined by KRS 600.020(52).

(14) "Qualified professional in the area of intellectual disabilities" is defined by KRS 202B.010(12).

(15) "Social service worker":

(a) Is defined by KRS 600.020(63); or

(b) Means a social or human service worker with an out-of-state public or licensed private child welfare agency who meets the requirements of that state to conduct a home study.

Section 2. Eligibility and Referral to the Child-Focused Recruitment Model. A child may be referred to C.F.R.M if the child:

(1) Is determined eligible, as special needs, in accordance with 42 U.S.C. 673;

(2) Has a goal of planned permanent living arrangement or long-term foster care;

(3) Is on extended commitment and has had parental rights terminated; or

(4) Has adoption as the child's case plan goal and does not have an adoptive resource identified.

Section 3. Preparation of the Child for Adoptive Placement.

(1) A child prepared for adoptive placement by cabinet staff shall receive information regarding the following, with consideration given to the child's maturity and developmental stage:

(a) Relationship to the biological or legal parent;

(b) Entitlement to a parent;

(c) If applicable, relationship with the foster family home and the rights of a foster child established in KRS 620.363;

(d) Reason the foster placement may not become the adoptive placement;

(e) Role of the social service worker, other pertinent cabinet staff, and the child in the placement planning process;

(f) Meaning of adoption;

(g) Process of recruitment of a parent and how the child may be involved;

(h) Impending placement;

(i) Visitation process;

(j) Placement decision; and

(k) Cabinet staff responsible for the placement decision.

(2) Cabinet staff shall:

(a) Request the biological or legal parent to either consent or refuse to consent to the inspection of the adoption records by the adult adopted person when the child reaches twenty-one (21) years of age; and

(b) File with the circuit or family court in the county where the adoption was finalized the consent or refusal to consent to the inspection of the adoption records by the adult adopted person.

(3) If a child's permanency goal includes adoption and reunification with a sibling separated during foster care, the cabinet shall plan for the transition and coordinate increased visitation between siblings.

(4) A service region administrator or designee may make a determination that a sibling shall be separated from another sibling in adoption upon consideration of:

(a) If age appropriate, each sibling's understanding of the facts of the relationship, feelings, wishes, and ideas regarding options for placement;

(b) The perception of the relationship of each child with the sibling;

(c) The attachment to the current caregiver;

(d) Each child's permanency needs; and

(e) The recommendation of a:

1. QMHP; or

2. If applicable, a qualified professional in the area of intellectual disabilities.

(5) A planning committee shall convene annually for siblings who remain separated in out-of-home care to:

- (a) Determine if reunification is possible; and
- (b) Develop a plan for maintaining sibling connections.

(6) A QMHP, qualified professional in the area of intellectual disabilities, relative, social service worker, other pertinent cabinet staff, nonadoptive foster parent, or another individual approved by cabinet staff may assist with preparing the child for adoption.

(7) If the child's goal is changed to adoption, a child in the custody of the cabinet may be placed with an approved adoptive parent prior to the termination of parental rights to the child.

(8) If a prospective adoptive parent has not been identified for a child after the child's permanency goal has been changed to adoption in accordance with 922 KAR 1:140, the cabinet:

- (a) Shall convene an adoption review committee to meet and discuss child-specific recruitment and the potential strengths and barriers of placement with an identified prospective adoptive parent;
- (b) May invite an individual specified in subsection (6) of this section to a meeting in which the child's permanency plan is discussed; and
- (c) Shall assess for a C.F.R.M. referral at the time of goal change in accordance with Section 2 of this administrative regulation.

(9) If a prospective adoptive parent has not been identified for a child at the time of termination of parental rights or thereafter, the cabinet shall refer the child to K.A.P.E. at that time.

Section 4. Selection of an Adoptive Family.

(1) Priority consideration for an adoptive placement shall be given to:

- (a) A relative or fictive kin; or
- (b) The current foster family home.

(2) The process of recruiting a prospective adoptive parent shall begin if:

- (a) Parental rights of the child are terminated;
- (b) A relative or fictive kin has not made a commitment to adopt the child;
- (c) The child's foster family home has not made a commitment to adopt through a statement of intent;
- (d) Both biological or legal parents of the child are deceased and the cabinet has been granted custody through the court; or
- (e) The child's pre-adoptive placement is disrupted.

(3) Cabinet staff shall consider an inquiring adoptive parent's acceptance of the child's behavior and characteristics.

(4)

(a) The cabinet shall take the following into consideration regarding the number of children to be placed in an adoptive home:

- 1. The inquiring adoptive parent's parental capacity and resources to meet the needs of all children in the home; and
- 2. The impact of all children involved, including the potential adoptive child.

(b) An inquiring adoptive parent may request review of a denial based upon the number of children in the home in accordance with 922 KAR 1:350, Section 8(2).

(5) The cabinet shall review and obtain the inquiring adoptive parent's signature on the DPP-171A, Verbal Exchange of Information Acknowledgement Form.

Section 5. Preparation of the Prospective Adoptive Parent.

(1) Cabinet staff shall conduct a preplacement conference for a child available for adoption with the:

- (a) Foster parent, if applicable;

- (b) Prospective adoptive parent;
 - (c) If applicable, a QMHP or qualified professional in the area of intellectual disabilities; and
 - (d) Representative from the cabinet or child-placing agency where the child is placed.
- (2) During the pre-placement conference, cabinet staff shall:
- (a) Review and obtain the prospective adoptive parent's signature on the DPP-171, Notice of Confidentiality Requirements Acknowledgement Cover Sheet;
 - (b) Inform the prospective adoptive parent of:
 - 1. Visitation and supervision requirements in accordance with KRS 605.090(1)(b); and
 - 2. Detailed information about the child's history and services provided to the child, excluding any identifying information of the biological parent, including:
 - a. Health, background, and placement history;
 - b. Behavior, including behaviors in accordance with KRS 605.090(1); and
 - c. Personal characteristics;
 - (c) Assist the prospective adoptive parent in reaching a decision regarding acceptance of placement;
 - (d) Determine the method of presenting the prospective adoptive parent to the child; and
 - (e) Discuss with the prospective adoptive parent acceptance of the child's plan for visitation and placement.
- (3) If there is a planned foster parent adoption, the preplacement conference may occur at the same time the adoptive placement agreement is signed in accordance with KRS 199.555.

Section 6. Adoptive Placement.

- (1) The cabinet shall ensure the child transitions to the prospective adoptive placement by:
- (a) Arranging contact between the child and prospective adoptive parent appropriate to the child's age, developmental needs, and understanding of the permanency plan;
 - (b) Incorporating recommendations of the child's QMHP or qualified professional in the area of intellectual disabilities;
 - (c) Encouraging current caregivers, siblings, the prospective adoptive family, and others identified to have a meaningful relationship with the child, as appropriate; and
 - (d) Ensuring all needed services are in place.
- (2) After parental rights to the child are terminated, final placement with a prospective adoptive parent shall occur as quickly as possible upon concurrence of:
- (a) Cabinet staff;
 - (b) The prospective adoptive parent;
 - (c) The recommendation of a QMHP or qualified professional in the area of intellectual disabilities, if applicable; and
 - (d) The child, to the extent the child's age and maturity permit the child's participation.
- (3) Adoption assistance shall be provided in accordance with 922 KAR 1:050 or 922 KAR 1:060.

Section 7. Out-of-State Adoptive Placement.

- (1) Placement of a Kentucky child with an out-of-state prospective adoptive parent may occur if:
- (a) The prospective adoptive parent is seeking a child through:
 - 1. An out-of-state public child welfare agency; or
 - 2. A licensed private child welfare agency; and
 - (b) A home study has been completed or updated within one (1) year by the out-of-state public child welfare agency or licensed private child welfare agency, in

accordance with the requirements of the out-of-state agency.

(2) If a prospective adoptive parent who resides out-of-state cannot pay the expense to attend a pre-placement conference or visit the child, the cabinet may pay travel expenses for the prospective adoptive parent, to the extent funds are available.

(3) If the Kentucky and out-of-state deputy compact administrators agree to the child's visit in accordance with KRS 615.030, a child may visit and be placed with a prospective adoptive parent who resides in another state, in accordance with KRS 615.030.

(4) Upon approval of the commissioner or designee, cabinet staff or another adult whom the child knows shall accompany a Kentucky child available for adoption on an out-of-state visit or placement with a prospective out-of-state adoptive parent.

Section 8. Open Adoption. The cabinet shall not prohibit an open adoption.

Section 9. Postplacement Service.

(1) The goal of a postplacement service shall be to:

- (a) Ensure the success of the placement; and
- (b) Prevent disruption of the placement.

(2) The cabinet shall coordinate support services for a child and a prospective adoptive parent prior to the legal adoption and through finalization of the adoption.

(3) Until the adoption judgment has been granted by a court of competent jurisdiction, the cabinet shall conduct an annual permanency review of a child placed with a prospective adoptive parent.

(4) Post-Adoption Placement Stabilization Services (PAPSS) shall be offered in accordance with 922 KAR 1:530.

Section 10. Closure of An Approved Adoptive Home. Unless an extension is approved by the service region administrator or designee, closure of an approved adoptive home shall occur in accordance with:

- (1) 922 KAR 1:310; or
- (2) 922 KAR 1:350.

Section 11. Service Appeals. A service appeal may be requested in accordance with 922 KAR 1:320.

Section 12. Confidentiality of Records.

(1) A child's records shall be maintained in conformity with existing laws and administrative regulations pertaining to confidentiality, as established in KRS 194A.060(1), 199.430(3), 199.520, 199.525, 199.570, 199.572, 199.575, 620.050, 625.045, 625.108, and 922 KAR 1:510.

(2) If the child is not adopted, the prospective adoptive parent shall return all documentation pertaining to the child to the cabinet within ten (10) working days of the decision not to adopt.

Section 13. Request for Information from Adoption Records.

(1) Identifying information from the cabinet's record may be released only upon written order by the court upon application to the circuit court that granted the adoption by an adoptee, twenty-one (21) years of age or older.

(2) If the birth parent has not previously filed consent for release of identifying information with the circuit court, the judge may:

- (a) Issue a court order requiring the cabinet to conduct a search for each birth parent as identified on the original birth certificate; and
- (b) Determine the parent's desire concerning the release of identifying information from the record.

(3) Upon receipt of written request by the adult adoptee or the adoptive family, nonidentifying health and background information may be released by the cabinet from a

closed adoption record.

(4) If a request is received from an adoptee, eighteen (18) years of age or older, for contact with an adult preadoptive birth sibling separated during finalization of a closed adoption, cabinet staff shall:

(a) Review the adoption record; and

(b) Release identifying information if a mutual request for contact is contained within the record.

(5) If a request is received from a birth relative seeking an adoptee, either adult or minor, information may be given that adoption did occur and reassurance of the well-being of the adoptee at last contact may be confirmed, but cabinet staff shall not contact an adoptee or adoptive family at the request of the birth family.

(6) If an adult adoptee seeks contact with the birth family, cabinet staff shall inform the adult adoptee of a birth relative's interest.

Section 14. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "DPP-171, Notice of Confidentiality Requirements Acknowledgement Cover Sheet", 01/23;

(b) "DPP-171A, Verbal Exchange of Information Acknowledgement Form", 01/23.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dCBS/Pages/default.aspx>.

MARTA MIRANDA-STRAUB, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: January 26, 2023

FILED WITH LRC: February 8, 2023 at 8:05 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 24, 2023, 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 April 17, 2023, 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 April 30, 2023. 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.

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