

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Community Based Services

Division of Protection and Permanency

(Amendment)

922 KAR 1:350. Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers.

RELATES TO: KRS 2.015, 61.870-61.884, 194A.005(1), 194A.060, 189.125, 199.011, 199.430(3), 199.802, 258.015, 258.035, 311.720(12), 311.840(3), 314.011(5), (7), 527.100, 527.110, 600.020, 605.090, 610.110, 620.030, 620.050, 620.140(1)(d), 620.360, 620.363, 16 C.F.R. 1219-1220, 1632-1633, 42 C.F.R. 435.407, 45 C.F.R. Parts 160, 164, 8 U.S.C. 1151, 1181, 42 U.S.C. 671, 672

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472(1), 605.100(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet and to implement programs mandated by federal law or to qualify for the receipt of federal funds. KRS 605.100(1) requires the cabinet to arrange programs designed to provide for classification, segregation, and specialized treatment of children according to their respective problems, needs, and characteristics. KRS 199.472(1) requires the cabinet to promulgate administrative regulations to establish the process of determining an applicant's capacity for foster or adoptive parenthood. This administrative regulation

Section 1. Definitions.

(1) "Adoptive home" means a home in which a parent is approved by the cabinet to provide services as specified in Section 2(11) of this administrative regulation.

(2) "Applicant" means an individual or family subject to approval by the cabinet as a foster or adoptive home.

(3) "Cabinet" is defined by KRS 194A.005(1) and 600.020(7).

(4) "Care Plus" means a foster care program for a child who is determined to have specialized care needs as specified in Section 7 of this administrative regulation.

(5) "Child" means:

(a) A child as defined by KRS 199.011(4) and 600.020(9);

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d);
or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

(6) "Child with medical complexity" means a child who has a medical condition in accordance with Section 6(1)(b) of this administrative regulation.

(7) "Commissioner" means commissioner of the Department for Community Based Services.

(8) "Department" means the Department for Community Based Services.

(9) "Fictive kin" is defined by KRS 199.011(9) and 600.020(28).

(10) "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) If referring to an individual, any individual approved as a foster parent by the cabinet to provide services as specified in Section 2(11) of this administrative regulation.

(11) "Health professional" means a person actively licensed as a:

- (a) Physician as defined by KRS 311.720(12);
 - (b) Physician assistant as defined by KRS 311.840(3);
 - (c) Advanced practice registered nurse as defined by KRS 314.011(7); or
 - (d) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.
- (12) "Home study" means an assessment done on a prospective foster or adoptive home by a social services worker.
- (13) "Independent living services" means services provided to an eligible child to assist the child in the natural progression from adolescence to adulthood.
- (14) "Nonfamilial" means:
- (a) Not related; and
 - (b) Not fictive kin.
- (15) "Placement" means the physical change in the location and living arrangement of a child in the custody of the cabinet removed from the child's home of origin.
- (16) "Relative" means an individual related to a child by blood, marriage, or adoption.
- (17) "Respite care" means temporary care provided by a provider, as specified in Section 19 of this administrative regulation, to meet the needs of the child or provide relief to the foster or adoptive parents with the expectation of a child's return to the current foster or adoptive home.

Section 2. General Requirements for a Nonfamilial Foster or Adoptive Parent.

- (1) This section establishes the requirements for a foster or adoptive parent applicant who is nonfamilial to a child in state custody.
- (2) A foster or adoptive parent applicant shall be at least twenty-one (21) years of age.
- (3) A foster or adoptive parent applicant shall provide proof of the applicant's United States citizenship or legal immigrant status, as described in 8 U.S.C. 1151, 8 U.S.C. 1181, and 42 C.F.R. 435.407.
- (4)
- (a) A married couple may apply to become foster or adoptive parents; or
 - (b) A single, unmarried person may apply to become a foster or adoptive parent.
- (5) The decision to foster or adopt a child shall be agreed to by each adult member of the applicant's household.
- (6) A foster or adoptive applicant shall participate in the home study process and complete required questionnaires, screening, and individual interviews and may be required to provide additional documentation in order to mitigate needs or concerns identified in the home study process.
- (7)
- (a) Each foster or adoptive applicant and adult member of the applicant's family shall submit a DPP-107, Health Information Required for Foster or Adoptive Parents, Applicants, or Adult Household Members, completed:
 1. By a health professional who is not a member of the applicant's household, based upon health information within the past year, documenting:
 - a. The individual has no illness or condition that would present a health or safety risk to a child placed in the applicant's home, which may include a communicable disease; and
 - b. That there are no known health factors that would interfere with the applicant's ability to become a foster or adoptive parent;
 2. As part of:
 - a. The initial application;
 - b. The reevaluation; or
 - c. A foster or adoptive home review pursuant to Section 15 of this administrative regulation; and

3. By all household members in which the household member discloses mental health and substance abuse issues, including any history of drug or alcohol abuse or treatment.
- (b) The department shall require further documentation or evaluation to determine the suitability of the home if there is an indicator of current or past mental health or substance abuse issues in a household member.
- (8) Each foster or adoptive parent applicant shall submit a DPP-108, Health Information Required for Foster or Adoptive Parents or Applicants Regarding Dependent Children, for each child member of the applicant family.
- (9) A foster or adoptive parent applicant shall have a source of income:
- (a) Sufficient to meet the applicant's household expenses; and
 - (b) Separate from:
 - 1. Foster care reimbursement; or
 - 2. Adoption assistance.
- (10) Unless specified in a contract between the cabinet and a child welfare agency that provides foster care services, a foster or adoptive parent shall accept a child for foster care only from the cabinet.
- (11) An approved foster or adoptive parent shall be willing to:
- (a) Provide foster care services for a child placed in out-of-home care by the cabinet;
 - (b) Adopt a child:
 - 1. Whose parent's parental rights have been terminated; and
 - 2. Who is under the custodial control of the cabinet;
 - (c) Provide respite care for a child under the custodial control of the cabinet; or
 - (d) Provide any combination of the services described in paragraphs (a) through (c) of this subsection.
- (12) A foster or adoptive applicant shall provide to the cabinet:
- (a)
 - 1. The names of three (3) personal references including:
 - a. One (1) relative reference; and
 - b. Two (2) non-relative references.
 - 2. The references required by subparagraph 1. of this paragraph shall:
 - a. Be interviewed by cabinet staff in person or by telephone; or
 - b. Provide letters of reference for the applicant; and
 - (b) Two (2) credit references or a credit report.
- (13) Unless a documented exception exists and is approved by designated cabinet staff due to inaccessibility, each adult child of the foster or adoptive parent applicant who does not live in the home shall be interviewed by cabinet staff in person or by telephone regarding the applicant's parenting history.
- (14) If applicable, verification shall be obtained from the foster or adoptive parent applicant regarding:
- (a) Previous divorce;
 - (b) Death of a spouse; and
 - (c) Present marriage.
- (15) A foster or adoptive parent applicant who does not have custody of his or her own child shall provide:
- (a) A copy of the visitation order, if applicable;
 - (b) A copy of the child support order, if applicable; and
 - (c) Proof of current payment of child support, if applicable.
- (16) A foster or adoptive parent applicant and any member of the applicant's household shall submit to the background checks required by 922 KAR 1:490.

Section 3. General Requirements for a Relative or Fictive Kin Foster or Adoptive Parent.

(1) This section establishes the requirements for a foster or adoptive parent applicant who is a relative or fictive kin to a child in state custody.

(2)

(a) Unless an exception is approved pursuant to paragraph (b) of this subsection, a foster or adoptive parent applicant shall be at least twenty-one (21) years of age.

(b) A foster or adoptive parent applicant between eighteen (18) and twenty-one (21) years of age may be approved as a foster or adoptive parent if cabinet staff determine the placement is in the best interest of the child.

(3) A foster or adoptive parent applicant shall provide proof of the applicant's United States citizenship or legal immigrant status, as described in 8 U.S.C. 1151, 8 U.S.C. 1181, and 42 C.F.R. 435.407.

(4)

(a) A married couple may apply to become foster or adoptive parents; or

(b) A single, unmarried person may apply to become a foster or adoptive parent.

(5) The decision to foster or adopt a child shall be agreed to by each adult member of the applicant's household.

(6) Unless specified in a contract between the cabinet and a child welfare agency that provides foster care services, a foster or adoptive parent shall accept a child for foster care only from the cabinet.

(7) A foster or adoptive applicant shall participate in the home study process and complete required questionnaires, screening, and individual interviews and may be required to provide additional documentation to mitigate needs or concerns identified in the home study process.

(8) An approved foster or adoptive parent shall be willing to:

(a) Provide foster care services for a child placed in out-of-home care by the cabinet;

(b) Adopt a child:

1. Whose parent's parental rights have been terminated; and

2. Who is under the custodial control of the cabinet;

(c) Provide respite care for a child under the custodial control of the cabinet;

(d) Enter into a subsidized permanent custody agreement; or

(e) Provide any combination of the services described in paragraphs (a) through (d) of this subsection.

(9) A foster or adoptive parent applicant who does not have custody of his or her own child shall provide:

(a) A copy of the visitation order, if applicable;

(b) A copy of the child support order, if applicable; and

(c) Proof of current payment of child support, if applicable.

(10) A foster or adoptive parent applicant and any member of the applicant's household shall submit to the background checks required by 922 KAR 1:490.

Section 4. Department Staff Applying to be a Foster or Adoptive Parent.

(1) A department employee who provides protection and permanency services may apply to adopt a child in the care and custody of the cabinet pursuant to Section 2 or 3 of this administrative regulation if the commissioner or designee approves the employee to adopt and the adoption is in the best interest of the child.

(2)

(a) A department employee who provides protection and permanency services may apply to be a respite care provider or foster parent for a child in the care and custody of the cabinet pursuant to Section 2 or 3 of this administrative regulation and shall be approved if applicable requirements are met and prior approval by the commissioner or designee is granted in writing through the service region administrator in the region of employment.

- (b) If approval is granted, the department shall:
1. Ensure the employee completes pre-service training outside the region of employment, as applicable pursuant to 922 KAR 1:495;
 2. Assign a social services worker outside of the applicant employee's region of employment to complete the home study;
 3. Maintain the case outside of the applicant employee's region of employment; and
 4. Ensure that the employee shall not accept the placement of a child from within the region of employment unless:
 - a. The employee is related to the child; or
 - b. The employee is determined to be fictive kin as the result of a relationship developed outside of employment prior to the child being placed in the custody of the cabinet.

Section 5. Home Environment.

- (1) The foster or adoptive parent shall request written approval from designated cabinet staff to provide services as a:
- (a) Certified provider of supports for community living in accordance with 907 KAR 12:010;
 - (b) Certified family child care home in accordance with 922 KAR 2:100; or
 - (c) Provider of child-care center services in accordance with 922 KAR 2:090.
- (2) If the foster or adoptive home adjoins a place of business open to the public, potential negative impact on the family and the child shall be examined including the:
- (a) Hours of operation;
 - (b) Type of business; and
 - (c) Clientele.
- (3) The foster or adoptive parent shall have access to:
- (a) Reliable transportation that meets the child's needs, including restraint requirements pursuant to KRS 189.125;
 - (b) School;
 - (c) Recreation;
 - (d) Medical care; and
 - (e) Community facilities.
- (4) A foster or adoptive parent who drives shall:
- (a) Possess a valid driver's license;
 - (b) Possess proof of liability insurance; and
 - (c) Abide by passenger restraint laws.
- (5)
- (a) More than four (4) children, including the foster or adoptive parent's own children, shall not share a bedroom, with thorough consideration given to each child's age, gender, and background.
 - (b) Children of different genders over the age of five (5) shall not share a bedroom except as approved by designated department staff if:
 1. Necessary to facilitate the placement of a sibling group or children who are related and share a sibling-like relationship, such as cousins; and
 2. There are no high-risk behaviors.
- (6) Each child shall have:
- (a) A separate bed that is age and size appropriate for the child; or
 - (b) If the child is under age one (1), a crib that meets Consumer Products Safety Commission standards pursuant to 16 C.F.R. 1219-1220.
- (7) A child's mattress shall:
- (a) Meet current Consumer Products Safety Commission Standards in 16 C.F.R. Parts 1632 and 1633;

- (b) Be in good repair; and
- (c) Have a clean fitted sheet that shall be changed:
 - 1. Weekly; or
 - 2. Immediately if it is soiled or wet.
- (8) Except as approved by designated cabinet staff, a foster or adoptive parent shall not share a bedroom with a child under the custodial control of the cabinet unless necessary due to the needs of the child.
- (9) A bedroom used by a child under the custodial control of the cabinet shall be comparable to other bedrooms in the house.
- (10) The physical condition of the foster or adoptive home shall:
 - (a) Not present a hazard to the safety and health of a child;
 - (b) Be well heated and ventilated;
 - (c) Comply with state and local health requirements regarding water and sanitation;
 - (d) Provide access to indoor and outdoor recreation space appropriate to the developmental needs of a child placed in the foster or adoptive home;
 - (e) Provide functioning kitchen facilities; and
 - (f) Provide a functioning bathroom, including a:
 - 1. Toilet;
 - 2. Sink; and
 - 3. Bathtub or shower.
- (11) The following shall be inaccessible to a child:
 - (a) Medication, unless an exception is granted pursuant to subsection (12) of this section;
 - (b) Alcoholic beverage;
 - (c) Poisonous or cleaning material;
 - (d) Ammunition; and
 - (e) Firearms in accordance with KRS 527.100 and 527.110.
- (12) An exception may be provided by designated cabinet staff to subsection (11)(a) of this section if:
 - (a)
 - 1. The child is approved by a health care professional to self-administer medicine under the supervision of the foster or adoptive parent; or
 - 2. Emergency access to the medication may be necessary to save the child's life, such as in the case of severe allergic reaction or asthma attack; and
 - (b) Measures are taken to prevent unauthorized access by another child in the same home.
- (13) Any household animal shall be vaccinated in accordance with KRS 258.015 and 258.035.
- (14) A dangerous animal shall not be allowed near the child.
- (15) First aid supplies shall be available and stored in a place easily accessible to an adult.
- (16) A working telephone shall be accessible.
- (17) The home shall be equipped with a working smoke alarm within ten (10) feet of each bedroom and on each floor of the home.
- (18) A home with gas heating or appliances shall be equipped with a working carbon monoxide detector.
- (19) Safety precautions related to an accessible swimming pool or body of water shall be documented, if applicable.

Section 6. Medically Complex Foster or Adoptive Home.

- (1) An applicant shall be approved by cabinet staff as a medically complex home if the foster or adoptive parent:

- (a) Meets the requirements in Sections 2 or 3 and 5 of this administrative regulation, except for Section 2(9), which may be considered as an exclusion on a case-by-case basis by designated cabinet staff based on the best interests or needs of the child;
 - (b) Cares for a child in the custody of the cabinet who is determined to be medically complex by designated cabinet staff due to:
 - 1. Significant medically oriented care needs related to a serious illness or condition diagnosed by a health professional that may become unstable or change abruptly, resulting in a life-threatening event;
 - 2. A chronic condition that is expected to be life-long and progressive and to require extensive services;
 - 3. An acute, time-limited condition requiring additional oversight; or
 - 4. A severe disability that requires the routine use of medical devices or assistive technology to compensate for the loss of a vital body function needed to participate in activities of daily living and significant and sustained care to avert death or further disability;
 - (c) Is a primary caretaker who is not employed outside the home, except as approved by designated cabinet staff and based on the needs of the child;
 - (d) Completes training in accordance with 922 KAR 1:495, Section 4;
 - (e) Receives training with documentation of completion from a health professional or a previous caregiver that was trained by a health professional in how to care for the specific child with medical complexity who shall be placed in the foster or adoptive parent's care;
 - (f) Maintains current certification in:
 - 1. Infant, child, and adult CPR; and
 - 2. First aid; and
 - (g) Has a home within:
 - 1. One (1) hour of a medical hospital with an emergency room; and
 - 2. Thirty (30) minutes of a local medical facility.
- (2) Except for a sibling group or unless approved by designated cabinet staff in accordance with Section 18 of this administrative regulation, more than four (4) children, including the foster or adoptive parent's own children, shall not reside in a medically complex foster or adoptive home.
- (3) Unless an exception is approved pursuant to Section 18(2) of this administrative regulation and a medically complex foster or adoptive home has daily support staff to meet the needs of a child with medical complexity:
- (a) A one (1) parent medically complex foster or adoptive home shall:
 - 1. Not care for more than one (1) child with medical complexity; and
 - 2. Demonstrate access to available support services; and
 - (b) A two (2) parent medically complex foster or adoptive home shall:
 - 1. Not care for more than two (2) children with medical complexity; and
 - 2. Demonstrate access to available support services.
- (4) Unless an exception pursuant to Section 18(2) of this administrative regulation is approved, a child with medical complexity shall be placed in an approved medically complex foster or adoptive home.
- (5) Unless the home is closed pursuant to Section 16 of this administrative regulation, an approved medically complex foster or adoptive parent shall receive reapproval by the cabinet as a medically complex home if the parent:
- (a) Annually completes training specified in 922 KAR 1:495, Section 4; and
 - (b) Continues to meet the requirements of this section.
- (6) An approved medically complex foster or adoptive parent shall cooperate in carrying out the child's health plan.

Section 7. Care Plus Home.

(1) An applicant shall be approved by cabinet staff as a care plus parent if the foster or adoptive parent:

- (a) Meets the requirements of Sections 2 or 3 and 5 of this administrative regulation, except for Section 2(9), which may be considered as an exclusion on a case-by-case basis by designated cabinet staff based on the best interests or needs of the child;
- (b) Agrees to care for a child in the custody of the cabinet approved by cabinet staff as a care plus child. The child shall be approved as a care plus child if at least one (1) of the following criteria has been met: The child:
 - 1. Has a diagnosed emotional or behavioral problem;
 - 2. Is due to be released from a treatment facility;
 - 3. Is aggressive, destructive, or displays disruptive behavior;
 - 4. Is at risk of being placed in a more restrictive setting;
 - 5. Is at risk of institutionalization; or
 - 6. Has experienced numerous placement failures;
- (c) Is a primary caretaker who is not employed outside the home, unless the cabinet determines that the child's needs continue to be met;
- (d) Completes training in accordance with 922 KAR 1:495, Section 6; and
- (e) Agrees to maintain a weekly record of the care plus child's activities and behaviors.

(2) Unless an exception is approved pursuant to Section 18(2) of this administrative regulation and the care plus home parent can demonstrate access to available support services:

- (a) No more than four (4) children, including the foster or adoptive parent's own children, shall reside in a care plus home;
- (b) A one (1) parent care plus home shall not care for more than one (1) care plus child as described in subsection (1)(b) of this section; and
- (c) A two (2) parent care plus home shall not care for more than two (2) care plus children as described in subsection (1)(b) of this section.

(3) Unless the home is closed pursuant to Section 16 of this administrative regulation, an approved care plus foster or adoptive parent shall receive reapproval by the cabinet as a care plus home, if the parent:

- (a) Annually completes training in accordance with 922 KAR 1:495, Section 6;
- (b) Submits to a review of the parent's:
 - 1. Strengths and needs;
 - 2. Records maintained on services provided to the child; and
 - 3. Ability to meet the goals established for the child; and
- (c) Continues to meet the requirements of this section.

Section 8. Preparation and Selection of a Foster or Adoptive Home.

(1) The cabinet shall recruit a foster or adoptive home and approve the home prior to the placement of a child, except in the case of a placement with a relative or fictive kin caregiver.

(2) Upon recruitment of a foster home, the cabinet shall register the foster home in the foster care registry within fourteen (14) days.

(3) Prior to approval as a foster or adoptive parent, the cabinet shall check the foster care registry for information relating to a previous closure or corrective action.

(4) If an applicant previously approved to foster or adopt by a child-placing agency or the cabinet was:

- (a) Closed pursuant to 922 KAR 1:310 or Section 16 of this administrative regulation, the home shall be reviewed by the cabinet, including reviewing agency records relating to the cause for closure, and may be approved and operated as a cabinet foster home; or

- (b) Under a corrective action plan issued by a child-placing agency or the cabinet prior to closure, the cabinet shall review and approve the home study prior to the home being approved.
- (5) Prior to approval as a foster or adoptive parent, an applicant shall complete training requirements in accordance with 922 KAR 1:495, if applicable.
- (6) If a new adult moves into an approved foster or adoptive home where a child is already placed by the cabinet, the child may remain and additional children may be placed if the new adult:
- (a) Completes training in accordance with subsection (5) of this section within six (6) months of entering the home; and
 - (b) Meets the applicable requirements of this administrative regulation.
- (7) An adult child or incapacitated person who resides in the foster or adoptive home shall not be required to complete training in accordance with 922 KAR 1:495 if that individual shall not be responsible for routine daily care of a child placed in the home by the cabinet.
- (8) The cabinet shall not be obligated to grant foster or adoptive home approval or placement of a specific child to an individual or family that completes pre-service training.
- (9) In addition to completion of training in accordance with 922 KAR 1:495, at least one (1) family consultation shall be conducted by cabinet staff in the home of an applicant, to include:
- (a) Documentation that the applicable requirements of this administrative regulation have been met;
 - (b) Documentation that a personal interview with each member of the applicant's household has been completed;
 - (c) Discussion of the attitude of each member of the applicant's household toward placement of a child;
 - (d) Observation of the functioning of the applicant's household, including interpersonal relationships and patterns of interaction; and
 - (e) Assurance that the applicant is willing to accept a child's relationship with the child's family of origin.
- (10) An applicant approved as a foster or adoptive parent or respite care provider by another state or by a child-placing agency as defined in KRS 199.011(6) shall:
- (a) Meet the applicable requirements established within this administrative regulation;
 - (b) Be assessed by cabinet staff to ascertain the applicant's level of skill as a potential Kentucky foster or adoptive parent;
 - (c) Provide verification of the closure and a statement to indicate whether the closure was at the request of the foster or adoptive parent, the other state, or the agency; and
 - (d) Not be required to complete training in accordance with 922 KAR 1:495 for approval as a Kentucky foster or adoptive parent if cabinet staff:
 1. Determine that the applicant possesses the necessary skills for fostering; and
 2. Obtain records and recommendation from the other state or child-placing agency.
- (11) Following initial training as specified in 922 KAR 1:495, if cabinet staff determines that an applicant or adult household member lacks the necessary skills to become a foster or adoptive parent, an individualized training curriculum shall be developed to fulfill unmet training needs.
- (12)
- (a) A foster or adoptive parent shall request the recommendation of cabinet staff prior to enrolling in training specified in 922 KAR 1:495, Section 4(1) or 6(1); and
 - (b) Cabinet staff may recommend the foster or adoptive parent to receive training specified in 922 KAR 1:495, Section 4(1) or 6(1), if the parent possesses the aptitude

to care for a child described in Section 6(1)(b) or 7(1)(b) of this administrative regulation.

Section 9. Completion of the Foster or Adoptive Approval Process.

(1) Designated cabinet staff in a supervisory role shall approve a foster or adoptive applicant if:

- (a) The applicant meets all applicable requirements of this administrative regulation;
- (b) Designated cabinet staff recommends approval; and
- (c) The applicant's ability to provide a foster, adoptive, or respite care service is consistent with the:
 - 1. Cabinet's minimum foster or adoptive home requirements established in this administrative regulation; and
 - 2. Needs of the families and children served by the cabinet.

(2) If the designated cabinet staff determines that an applicant does not meet the minimum requirements for approval as a foster or adoptive parent, the cabinet shall:

- (a)
 - 1. Recommend that the applicant withdraw the application; or
 - 2. Deny the application pursuant to Section 10 of this administrative regulation; and
- (b) Document the recommendation or denial in the foster care registry.

Section 10. Denial of a Foster or Adoptive Home Application.

(1) Designated cabinet staff shall notify an applicant, in writing, if the application to become a foster or adoptive parent is not recommended or denied for one (1) of the following reasons:

- (a) The applicant is unwilling to withdraw the application to become a foster or adoptive parent after receiving a recommendation to withdraw; or
- (b) The applicant desires to adopt, but is unwilling to adopt a child under the custodial control of the cabinet.

(2) If the foster or adoptive applicant disagrees with the cabinet's recommendation to not accept the applicant as a foster or adoptive home or denial, designated cabinet staff shall review the application to become a foster or adoptive parent and issue a final written determination regarding the cabinet's recommendation or denial.

(3) Cabinet staff shall enter information regarding the recommendation, denial, and final determination, if written, into the foster care registry.

Section 11. Expectations of a Foster or Adoptive Home. A foster or adoptive home providing services for a child in the custody of the cabinet shall:

(1) Provide a child placed by the cabinet 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) Educational opportunities;
- (g) Nonmedical transportation;
- (h) Independent living services for a child age fourteen (14) and older;
- (i) Opportunities for development consistent with their religious, ethnic, and cultural heritage;
- (j) Adequate supervision; and
- (k) Refraining from smoking in the direct presence of a child for whom the child's physician recommends, in writing, a smoke-free environment.

(2) Permit cabinet staff to visit;

- (3) Share with cabinet staff pertinent information about a child placed by the cabinet;
- (4) Comply with the general supervision and direction of the cabinet concerning the care of a child placed by the cabinet;
- (5) Report immediately to the cabinet if there is a:
 - (a) Change of address;
 - (b) Hospitalization or life-threatening accident or illness of a child placed by the cabinet;
 - (c) Change in the number of people living in the home;
 - (d) Significant change in circumstances in the foster or adoptive home, such as income loss, marital separation, or other household stressor;
 - (e) Child placed in the home that is absent without official leave;
 - (f) Suicide attempt of a child placed by the cabinet; or
 - (g) Criminal activity by the child placed by the cabinet;
- (6) Notify the cabinet if:
 - (a) Leaving the state with a child placed by the cabinet for more than twenty-four (24) hours; or
 - (b) A child placed by the cabinet is to be absent from the foster or adoptive home for more than twenty-four (24) hours;
- (7) Cooperate with the cabinet if a contact is arranged by cabinet staff between a child placed by the cabinet and the child's birth family including:
 - (a) Visits;
 - (b) Telephone calls;
 - (c) Mail; or
 - (d) Other method approved by the cabinet.
- (8) Surrender a child to the authorized representative of the cabinet upon request;
- (9) Keep confidential all personal or protected health information as shared by the cabinet, in accordance with KRS 194A.060, 620.050, and 45 C.F.R. Parts 160 and 164 concerning a child placed by the cabinet or the child's birth family;
- (10) Support an assessment of the service needs of a child placed by the cabinet;
- (11) Participate in case-planning conferences concerning a child placed by the cabinet;
- (12) Cooperate with the implementation of the permanency goal established for a child placed by the cabinet;
- (13) Notify the cabinet at least fourteen (14) calendar days in advance of the home's intent to become certified to provide foster care or adoption services through a private child-placing agency in accordance with 922 KAR 1:310;
- (14) Treat a child placed by the cabinet with dignity;
- (15) Provide trauma-informed discipline;
- (16) Arrange for respite care services in accordance with Section 12(5) of this administrative regulation;
- (17) Ensure that a child in the custody of the cabinet receives the child's designated per diem allowance;
- (18) Facilitate the delivery of medical care to a child placed by the cabinet as needed, including:
 - (a) Administration of medication to the child and daily documentation of the medication's administration; and
 - (b) Physicals and examinations for the child;
- (19) Report suspected incidents of child abuse, neglect, and exploitation in accordance with KRS 620.030;
- (20) Comply with KRS 620.360(2);
- (21) Be informed of and comply with KRS 620.363;
- (22) Have appeal rights in accordance with 922 KAR 1:320; and
- (23) Demonstrate functional literacy.

Section 12. Reimbursements for Foster Homes.

(1) Types of per diem reimbursement. If the cabinet approves a foster home pursuant to this administrative regulation, it shall authorize a per diem reimbursement as established in this subsection.

(a) A basic per diem reimbursement shall be:

1. Based on the age of a child placed by the cabinet in the foster home; and
2. Made to the foster home that meets annual training requirements in accordance with 922 KAR 1:495, Section 3.

(b) An advanced per diem reimbursement shall be:

1. Made to a foster home that has:
 - a. Been approved for two (2) years as a foster or adoptive parent; and
 - b. Met training requirements in accordance with 922 KAR 1:495, Section 3; and
2. Based on the age of the child placed by the cabinet.

(c) A basic medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 6 of this administrative regulation; and
2. Provides for the care of a child with medical complexity.

(d) An advanced medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 6 of this administrative regulation;
2. Has been approved for one (1) year as a medically complex foster or adoptive parent;
3. Has met training requirements in accordance with KRS 922 KAR 1:495, Section 3; and
4. Provides for the care of a child with medical complexity.

(e) A degreed medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 6 of this administrative regulation;
2. Maintains a current license as a health professional; and
3. Provides for the care of a child with medical complexity.

(f) A basic care plus foster home per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 7 of this administrative regulation; and
2. Provides for the care of a child described in Section 7(1)(b) of this administrative regulation.

(g) An advanced care plus foster home per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 7 of this administrative regulation;
2. Has been approved for one (1) year as a care plus foster or adoptive parent;
3. Has met training requirements in accordance with 922 KAR 1:495, Section 3(1); and
4. Provides for the care of a child described in Section 7(1)(b) of this administrative regulation.

(h) A specialized medically complex per diem reimbursement shall be made to a foster parent who:

1. Meets criteria specified in Section 6 of this administrative regulation; and
2. Provides for the care of a child with medical complexity determined by designated cabinet staff to meet specialized medically complex criteria due to a required higher level of medical care or oversight, which may also include behavioral or emotional needs related to the medical condition.

(i) A degreed specialized medically complex per diem reimbursement shall be made to a foster parent who:

1. Maintains a current license as a health professional;
 2. Meets criteria specified in Section 6 of this administrative regulation; and
 3. Provides for the care of a child with medical complexity determined by designated cabinet staff to meet specialized medically complex criteria due to a required higher level of medical care or oversight, which may also include behavioral or emotional needs related to the medical condition.
- (j) Upon placement of a child by the cabinet, a per diem reimbursement shall:
1. Be specified in a contract between an approved foster home and the cabinet; and
 2. Provide for the care of a child placed by the cabinet, to include:
 - a. Housing expenses;
 - b. Food-related expenses;
 - c. Nonmedical transportation;
 - d. Clothing;
 - e. Allowance;
 - f. Incidentals;
 - g. Babysitting, excluding childcare authorized in subsection (4)(b) of this section;
 - h. Sports, recreation, and school activities;
 - i. One (1) day of respite care per child per month; and
 - j. School expenses.
- (2) Medical coverage.
- (a) Cabinet staff may authorize payment for medical expenses for a child in the custody of the cabinet after verification is provided that the child is not covered by health insurance, Medicaid, or the Kentucky Children's Health Insurance Program (K-CHIP).
 - (b) Designated cabinet staff shall approve or deny authorization of payment for a medical treatment greater than \$500.
- (3) Child care services.
- (a) The cabinet shall review requests for child care services every six (6) months for a working foster parent.
 - (b) Designated cabinet staff may approve requests for child care services for a nonworking foster parent if:
 1. A medical crisis affects the foster parent; or
 2. The child care is appropriate to support the foster home or child.
 - (c) Designated cabinet staff shall review approved requests for child care services for a nonworking foster parent every three (3) months.
 - (d) Reimbursements shall not be made simultaneously to the same provider for foster care and child care services.
 - (e) A foster parent shall not simultaneously be used as a licensed or certified health care or social service provider for a child placed in the foster parent's care by the cabinet.
- (4) Training. To the extent funds are available, the cabinet shall provide a reimbursement to an approved foster or adoptive home for ongoing training expenses commensurate with the foster or adoptive parent's training needs, including:
- (a) Mileage;
 - (b) Babysitting; and
 - (c) Tuition or fees up to the amount of:
 1. \$100 per parent per year; or
 2. \$200 per parent per year for a:
 - a. Medically complex foster or adoptive home; or
 - b. Care plus foster or adoptive home.
- (5) Respite care.
- (a) Respite care shall be available for a child placed by the cabinet in a foster home.

- (b) A foster home shall be eligible for one (1) day of respite care per month per child.
 - (c) A foster home that cares for a child in the custody of the cabinet and meets criteria established in Sections 6 and 7 of this administrative regulation shall be eligible for three (3) days of respite care per month per child.
 - (d) Designated cabinet staff may extend a foster parent's respite care use to fourteen (14) days if designated cabinet staff document that the:
 - 1. Foster parent requires the additional respite care:
 - a. To stabilize the child's placement in the foster home; or
 - b. Due to unforeseen circumstances that may occur, such as:
 - (i) Death in the family;
 - (ii) Surgery; or
 - (iii) Illness; or
 - 2. Child placed in the foster home requires additional respite care to allow for a period of adjustment.
 - (e) The cost of respite care shall not exceed the per diem for the child.
 - (f) A respite care provider shall be approved in accordance with Section 19 of this administrative regulation.
- (6) Appeals. A foster or adoptive parent may appeal the timeliness of reimbursement in accordance with 922 KAR 1:320.

Section 13. Home Study Requests.

- (1) Upon receipt of a request from another state's Interstate Compact on the Placement of Children Administrator in the interest of a child in the legal custody of that state's public agency, the cabinet shall complete the foster or adoptive home approval process as specified in Section 9 of this administrative regulation.
- (2) The cabinet shall share a previously approved home study in accordance with the Kentucky Open Records Act, KRS 61.870-61.884, and 42 U.S.C. 671(a)(23).
- (3) An individual may request an administrative hearing in accordance with 922 KAR 1:320 for failure of the cabinet to act in accordance with subsections (1) and (2) of this section.

Section 14. Foster or Adoptive Home Reevaluation.

- (1) Prior to or during the month of the anniversary date of the initial approval as a foster or adoptive parent, the foster or adoptive parent shall be required to complete annual training requirements as specified in 922 KAR 1:495, if applicable.
- (2)
 - (a) Failure to meet training requirements specified in subsection (1) of this section shall lead to closure unless an exception is granted by the designated cabinet staff for a foster parent caring for a child in the custody of the cabinet and it is determined that it is in the best interest of a child placed in the foster home.
 - (b) If an exception is approved as specified in paragraph (a) of this subsection, a new or additional child shall not be placed in the home until the foster parent has met the training requirement.
- (3) A cabinet staff member shall conduct a personal, in-home interview with a foster or adoptive parent prior to or during the month of the anniversary date of the third year of the initial approval as a foster or adoptive home. The interviewer shall assess:
 - (a) Any change in the foster or adoptive home;
 - (b) The ability of the foster or adoptive home parent to meet the needs of a child placed in the home; and
 - (c) Continuing compliance with the applicable requirements of this administrative regulation.
- (4) The cabinet staff member shall document requirements of subsection (3) of this section to include:

- (a) A list of persons residing in or frequently in the home since the initial approval or reevaluation;
- (b) A list of all foster children placed in the home since the initial approval or reevaluation and exit reasons for the children no longer in the home;
- (c) Use of formal and informal support systems including:
 - 1. Respite;
 - 2. Extended family support; and
 - 3. Friends or community partners;
- (d) Description of parenting and discipline strategies;
- (e) Changes in the physical environment including:
 - 1. Address change; and
 - 2. School district change;
- (f) Discussion of stressors within the home to include:
 - 1. Pregnancy or birth;
 - 2. Physical or mental health conditions;
 - 3. Employment changes;
 - 4. Financial changes;
 - 5. Death, grief, or loss;
 - 6. Childhood trauma; and
 - 7. Divorce or personal relationship changes;
- (g) Alcohol or drug use and any substance abuse treatment;
- (h) Functioning of relationships within the household;
- (i) Assessment of the family's ability to meet the needs of the children placed in the home;
- (j) List of foster or adoptive home reviews;
- (k) Areas of concern or actions to be addressed that may exist within the household; and
- (l) Placement recommendations.

Section 15. Foster or Adoptive Home Reviews.

- (1) Upon notification of a factor that may place unusual stress on the foster or adoptive home or create a situation that may place a child at risk, cabinet staff shall:
 - (a) Immediately assess the health and safety risk of the child; and
 - (b) Complete a review of the foster or adoptive home within thirty (30) calendar days.
- (2) Factors that shall result in a review of a foster or adoptive home shall include:
 - (a) Death or disability of a family member;
 - (b) Sudden onset of a health condition that would impair a foster or adoptive parent's ability to care for a child placed in the home by the cabinet;
 - (c) Change in marital status or home address;
 - (d) Sudden, substantial decrease in, or loss of, income;
 - (e) Childbirth;
 - (f) Use of a form of punishment or discipline that includes at least one (1) of the following:
 - 1. Cruel, severe, or humiliating actions;
 - 2. Corporal punishment inflicted in any manner;
 - 3. Denial of food, clothing, or shelter;
 - 4. Penalties for bedwetting or actions related to toilet training;
 - 5. Withholding implementation of the child's treatment plan;
 - 6. Denial of visits, telephone, or mail contacts with family members, unless authorized by a court of competent jurisdiction; or
 - 7. Assignment of extremely strenuous exercise or work;
 - (g) A report of abuse, neglect, or dependency that results in a finding that:

1. Is substantiated; or
 2. Reveals concern relating to the health, safety, and well-being of the child;
- (h) Termination of parental rights (including a voluntary action);
 - (i) If the foster or adoptive parent is cited with, charged with, or arrested due to a violation of law other than a minor traffic offense;
 - (j) Other factor identified by cabinet staff that jeopardizes the physical, mental, or emotional well-being of the child; or
 - (k) Failure to meet annual training requirements, if applicable.
- (3) The narrative of the review shall contain:
- (a) Identifying information;
 - (b) Current composition of the household;
 - (c) Description of the situation that initiated the review;
 - (d) An evaluation of the foster or adoptive home's family functioning to determine if the child's needs are met; and
 - (e) A plan for corrective action that may include a recommendation for closure of the foster or adoptive home.

Section 16. Closure of an Approved Foster or Adoptive Home.

- (1) A foster or adoptive home shall be closed if:
- (a) Cabinet staff determines that the family does not meet the general requirements of this administrative regulation, for a foster or adoptive home;
 - (b) A situation exists that is not in the best interest of a child;
 - (c) Sexual abuse or exploitation by the foster or adoptive parent or by another resident of the household is substantiated;
 - (d) Substantiated child abuse or neglect by a resident of the household occurs that is serious in nature or warrants removal of a child;
 - (e) A serious physical or mental illness develops that may impair or preclude adequate care of the child by the foster or adoptive parent; or
 - (f) The cabinet has not placed a child in the home within the preceding twelve (12) months, unless a written exception is provided by the service region administrator or designee.
- (2) A foster or adoptive home may be closed according to the terms of the contract between the cabinet and the foster or adoptive home.
- (3) If it is necessary to close an approved foster or adoptive home, the reason shall be stated by cabinet staff in a personal interview with the family, unless the family refuses or declines the personal interview.
- (4) The cabinet shall:
- (a) Confirm, in a written notice to the foster or adoptive parent, the decision to close a home;
 - (b) Deliver the notice to the foster or adoptive home within fourteen (14) calendar days of the interview with a foster or adoptive parent; and
 - (c) Submit closure information, including the cause for closure pursuant to subsection (1) of this section, in the foster care registry.
- (5) The written notice for closure of a foster or adoptive home shall include:
- (a) Notice that the cabinet shall not place a child in the home; and
 - (b) The reason why the foster or adoptive home is being closed.

Section 17. Reapplication.

- (1) A former foster or adoptive home parent whose home was closed pursuant to Section 16(1)(a) through (f) of this administrative regulation may be considered for reapproval if the cause of closure has been resolved.
- (2) To reapply, a former foster or adoptive parent shall:
- (a) Make a formal inquiry to the cabinet; and

- (b) Meet the requirements of:
 - 1. Section 2 or 3 of this administrative regulation; and
 - 2. Section 5 of this administrative regulation.
- (3) A reapplying former foster or adoptive parent shall reenroll and complete training requirements, as specified in Section 8 of this administrative regulation, unless:
 - (a) The former foster or adoptive parent has previously completed training requirements, as specified in Section 8(5) of this administrative regulation; and
 - (b) An exception to reenrollment is provided by designated cabinet staff that have ascertained that the former foster or adoptive parent otherwise meets the necessary skill level.
- (4) The foster care registry requirements of Section 8 of this administrative regulation shall be met.

Section 18. Placement Considerations.

- (1) Unless an exception is approved pursuant to subsections (2) or (3) of this section because a placement is in the best interest of the child and specific support services shall be provided, the requirements established by this subsection shall apply to foster homes.
 - (a) More than six (6) children, including children under the custodial control of the cabinet and the foster parent's own children living in the home, shall not reside in a foster home.
 - (b) More than two (2) children under age two (2), including children under the custodial control of the cabinet and the foster parent's own children living in the home, shall not reside in a foster home.
 - (c) A child with medical complexity shall be placed in an approved medically complex home.
- (2) To request an exception to the criteria established by subsection (1) of this section, cabinet staff shall submit the DPP-112A, DCBS Placement Exception Request, to designated cabinet staff prior to the proposed placement documenting:
 - (a) The reason the placement is in the best interest of the child; and
 - (b) Specific support services to be provided.
- (3) The number of foster children residing in a foster family home may exceed the limitation established in subsection (1)(a) of this section with documentation on the DPP-112A in order to allow:
 - (a) A parenting youth in foster care to remain with the child of the parenting youth;
 - (b) Siblings to remain together;
 - (c) A child with an established meaningful relationship with the family to remain with the family;
 - (d) A family with special training or skills to provide care to a child who has a severe disability; or
 - (e) Other circumstances noted in the DPP-112A and approved by the service region administrator or designee.
- (4) If an exception to subsection (1) or (2) of this section is necessary for a placement to occur outside of normal business hours:
 - (a) Cabinet staff shall verbally provide all information contained within the DPP-112A to designated cabinet staff prior to the placement;
 - (b) A verbal approval from designated cabinet staff shall be required prior to the placement occurring; and
 - (c) The completed DPP-112A shall be submitted on the first business day following placement.
- (5) Cabinet staff shall inform the foster parent of conditions related to the child in accordance with:
 - (a) KRS 605.090(1)(b); and

- (b) KRS 605.090(6).
- (6) Cabinet staff shall place a child with higher level needs in an advanced level home or above if a relative or fictive kin placement has not been identified.
- (7) A foster or adoptive parent may adopt a child for whom parental rights have been terminated if:
 - (a) Foster or adoptive parent adoption is determined by cabinet staff to be in the best interest of the child;
 - (b) The child resides in the foster or adoptive home; and
 - (c) Criteria in 922 KAR 1:100 are met.
- (8) If a foster or adoptive parent expresses interest in adopting a foster child currently placed in the home and an alternative permanent placement is in the child's best interest, cabinet staff shall meet with the foster or adoptive parent prior to selection of an adoptive home to explain:
 - (a) Why an alternative permanent placement is in the child's best interest; and
 - (b) The foster or adoptive parent's right to submit a request to the cabinet to reconsider the recommendation.

Section 19. Requirements for Respite Care Providers.

- (1) A respite care provider shall:
 - (a) Be:
 - 1. An approved foster or adoptive home; or
 - 2. Approved in accordance with subsection (2) of this section; and
 - (b) Receive preparation for placement of a child, including information in accordance with:
 - 1. KRS 605.090(1)(b); and
 - 2. Section 6(1)(e) through (g) of this administrative regulation, if the child is designated as medically complex.
- (2) If a foster or adoptive parent chooses a respite care provider who is not an approved foster or adoptive home, the respite care provider shall:
 - (a)
 - 1. Be at least twenty-one (21) years of age;
 - 2. Provide proof of the applicant's United States citizenship or legal immigrant status, as described in 8 U.S.C. 1151, 8 U.S.C. 1181, and 42 C.F.R. 435.407;
 - 3. Meet the background check requirements established in 922 KAR 1:490 for the applicant and his or her household; and
 - 4. Meet the requirements of Section 5 of this administrative regulation if respite care is provided outside the home of the foster or adoptive parent; and
 - (b)
 - 1. If providing respite care for a child described in Section 7(1)(b) of this administrative regulation, have:
 - a. Child-specific training in the mental health treatment of children or their families; or
 - b. A certificate of completion for twelve (12) hours of care plus training specified in 922 KAR 1:495, Section 6(1); or
 - 2. If providing respite care for a child with medical complexity or specialized medical complexity:
 - a. Meet training requirements in accordance with 922 KAR 1:495, Section 7;
 - b. Hold a current certificate in first aid;
 - c. Hold a current certificate in infant, child, and adult CPR; and
 - d. Receive child specific training from a health professional or a foster parent who has been trained by a health professional in how to care for the specific medical needs of the child.

(3) A respite care provider:

- (a) May attend pre-service training as specified in Section 8 of this administrative regulation; and
- (b) Shall comply with Sections 18 and 19 of this administrative regulation.

Section 20. Emergency Preparedness. Each foster home shall submit an emergency preparedness plan to the department that would allow the department to identify, locate, and ensure continuity of services to children who are in the custody of the cabinet.

Section 21. Maintenance of a Foster Care Record.

- (1) The cabinet shall maintain a record on each foster home, including medically complex foster homes and care plus foster care homes, if applicable.
- (2) A foster home's record shall be maintained in conformity with existing laws and administrative regulations pertaining to confidentiality, pursuant to KRS 199.430(3), 199.802, and 45 C.F.R. Parts 160 and 164.
- (3) A foster home may request and receive documentation from their record.

Section 22. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "DPP-107, Health Information Required for Foster or Adoptive Parents, Applicants, or Adult Household Members", 10/15;
 - (b) "DPP-108, Health Information Required for Foster or Adoptive Parents or Applicants Regarding Dependent Children", 10/15; and
 - (c) "DPP-112A, DCBS Placement Exception Request", 11/22.
- (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>.

LESA DENNIS, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: June 20, 2024

FILED WITH LRC: July 1, 2024 at 10:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on September 23, 2024, 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 September 16, 2024, 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 September 30, 2024. 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-

564-7476; fax 502-564-7091; email CHFSregs@ky.gov.