



NOTICES OF FINAL EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Exempt Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the

interpretation of the final exempt rule should be addressed to the agency proposing them. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 14. DEPARTMENT OF HEALTH SERVICES LABORATORIES

[R15-184]

PREAMBLE

- 1. Article, Part or Sections Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statutes (specific), and the statute or session law authorizing the exemption:
3. The effective date of the rules and the agency's reason it selected the effective date:
4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:
5. The agency's contact person who can answer questions about the rulemaking:



E-mail: Robert.Lane@azdhs.gov

6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Laws 2015, Ch. 222 established Arizona Revised Statutes (A.R.S.) § 36-468, which allows a person to obtain a laboratory test without a health care provider's order. Laws 2015, Ch. 222 also made corresponding changes to A.R.S. § 36-466 by removing the requirements for an advisory committee on clinical laboratories to establish a list of "direct access tests," defined as "tests that may be obtained without a physician referral," and for the Department to make the list of direct access tests available to the public. The Arizona Department of Health Services (Department) had implemented A.R.S. § 36-466 in Arizona Administrative Code (A.A.C.) Title 9, Chapter 14, Article 1. After receiving an exception from the rulemaking moratorium established by Executive Order 2015-01, the Department has amended the rules in 9 A.A.C. 14, Article 1, by removing the list of direct access tests and associated definitions to comply with Laws 2015, Ch. 222.

7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review or rely on any study related to this rulemaking package.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact, if applicable:

Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package (if applicable):

Not applicable

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

Not applicable

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

a. Whether the rule requires a permit, whether a general permit is used and, if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and, if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 14. DEPARTMENT OF HEALTH SERVICES
LABORATORIES**

ARTICLE 1. ~~DIRECT ACCESS TESTS AND~~ LABORATORY STANDING ORDERS

Section

R9-14-101. Definitions

R9-14-102. Direct Access Test List

R9-14-103-R9-14-102. Laboratory Standing Orders

R9-14-103. Renumbered



ARTICLE 1. ~~DIRECT ACCESS TESTS AND~~ LABORATORY STANDING ORDERS

R9-14-101. Definitions

In this Article, unless otherwise specified:

1. ~~“ALT” means alanine amino transferase.~~
2. ~~“AST” means aspartate amino transferase.~~
3. ~~“BUN” means blood urea nitrogen.~~
4. ~~“CBC” means complete blood count.~~
5. ~~1. “Clinical laboratory” means the same as in A.R.S. § 36-451.~~
6. ~~“CMP” means comprehensive metabolic panel.~~
7. ~~“Component” means a test included in a panel or profile.~~
8. ~~“Direct access test” means the same as in A.R.S. § 36-466.~~
9. ~~“Hct” means hematocrit.~~
10. ~~“HDL” means high density lipoprotein.~~
11. ~~“Hgb” means hemoglobin.~~
12. ~~“Hgb Ale” means glycosylated hemoglobin.~~
13. ~~2. “Laboratory standing order” means a written directive by a licensed practitioner to a clinical laboratory to perform a test.~~
14. ~~“LDL” means low density lipoprotein.~~
15. ~~3. “Licensed practitioner” means:~~
 - a. A podiatrist licensed under A.R.S. Title 32, Chapter 7;
 - b. A doctor of chiropractic licensed under A.R.S. Title 32, Chapter 8;
 - c. A doctor of medicine licensed under A.R.S. Title 32, Chapter 13 or licensed in another state;
 - d. A doctor of naturopathic medicine licensed under A.R.S. Title 32, Chapter 14;
 - e. A doctor of osteopathic medicine licensed under A.R.S. Title 32, Chapter 17 or licensed in another state;
 - f. A homeopathic physician licensed under A.R.S. Title 32, Chapter 29;
 - g. A dentist licensed under A.R.S. Title 32, Chapter 11, Article 2;
 - h. A physician assistant who is licensed under Title 32, Chapter 25 and who has the supervising physician's delegation required in A.R.S. § 32-2531; or
 - i. A registered nurse practitioner licensed under A.R.S. Title 32, Chapter 15 and certified under A.A.C. R4-19-504.
16. ~~“MCH” means mean corpuscular hemoglobin.~~
17. ~~“MCHC” means mean corpuscular hemoglobin concentration.~~
18. ~~“MCV” means mean corpuscular volume.~~
19. ~~“MPV” means mean platelet volume.~~
20. ~~“Panel” means a group of clinical laboratory tests associated with specific organs or diseases.~~
21. ~~4. “Patient” means an individual receiving services from a licensed practitioner.~~
22. ~~“pH” means acidity alkalinity status.~~
23. ~~“Profile” means a group of clinical laboratory tests frequently done together or in combinations.~~
24. ~~“PSA” means pro static specific antigen.~~
25. ~~“RBC” means red blood cells.~~
26. ~~“RDW” means red cell distribution width.~~
27. ~~“Reflex testing” means a follow up test automatically initiated by a clinical laboratory after an abnormal test result.~~
28. ~~5. “State” means the same as in A.R.S. § 36-841.~~
29. ~~6. “Supervising physician” means the same as in A.R.S. § 32-2501.~~
30. ~~7. “Test” means a clinical laboratory's examination or analysis of material from an individual's body.~~
31. ~~“T4” means thyroxine.~~
32. ~~“TSH” means thyroid stimulating hormone.~~
33. ~~“WBC” means white blood cells.~~

R9-14-102. Direct Access Test List

A: Unless expressly excluded in subsection (B), a component is a direct access test.

B: The direct access test list includes:

1. Lipid profile, including the following components:
 - a. Total cholesterol;
 - b. Triglycerides;
 - c. HDL, and
 - d. LDL;
2. Glucose;
3. Dipstick urinalysis, including the following components:
 - a. Specific gravity
 - b. Glucose



- e. Bilirubin
- d. Ketone
- e. Blood;
- f. pH;
- g. Protein;
- h. Urobilinogen;
- i. Nitrite;
- j. Leukocytes, and
- k. Ascorbic acid;
- 4. TSH with T4 reflex testing;
- 5. PSA;
- 6. Blood typing;
- 7. CBC, including the following components:
 - a. RBC;
 - b. WBC;
 - c. Hgb;
 - d. Hct;
 - e. Platelets;
 - f. WBC differential;
 - g. MCV;
 - h. MCH;
 - i. MCHC;
 - j. MPV, and
 - k. RDW;
- 8. Fecal occult blood;
- 9. Hgb A1C;
- 10. Urine pregnancy; and
- 11. CMP:
 - a. Including the following components:
 - i. Carbon dioxide;
 - ii. Sodium;
 - iii. Potassium;
 - iv. Chloride;
 - v. Albumin;
 - vi. Alkaline phosphatase;
 - vii. ALT;
 - viii. AST;
 - ix. Total bilirubin;
 - x. BUN;
 - xi. Creatinine;
 - xii. BUN-creatinine ratio;
 - xiii. Glucose;
 - xiv. Albumin-globulin ratio;
 - xv. Calcium;
 - xvi. Globulin; and
 - xvii. Total protein; and
 - b. Excluding anion gap.

~~R9-14-103~~R9-14-102. Laboratory Standing Orders

~~A laboratory shall only perform a test based on a laboratory standing order if the A laboratory standing order:~~

1. ~~Shall specify~~ Specifies:
 - a. The licensed practitioner's name, type of license, and licensing state;
 - b. The patient's name;
 - c. The date of the laboratory standing order;
 - ~~e.d.~~ One or more tests; and
 - ~~d.e.~~ The frequency of testing; and
2. ~~Remains in effect up to~~ Is dated no more than one year before the date of the test.

R9-14-103. Renumbered



NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES

[R15-185]

PREAMBLE

- 1. Article, Part or Sections Affected (as applicable) Rulemaking Action
Table 5.1 Amend
Table 5.2 Amend
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statutes (specific), and the statute or session law authorizing the exemption:
Authorizing statutes: A.R.S. §§ 36-136(F) and 36-2209(A)(2)
Implementing statute: A.R.S. §§ 36-2205(A) and 36-2228
Statute or session law authorizing the exemption: A.R.S. § 36-2205(B)
3. The effective date of the rules and the agency's reason it selected the effective date:
November 24, 2015
This effective date reduces the risk of death from an opiate-related drug overdose as quickly as possible.
4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:
Notice of Public Information: 21 A.A.R. 2422, October 16, 2015
5. The agency's contact person who can answer questions about the rulemaking:
Name: Terry Mullins, Bureau Chief
Address: Arizona Department of Health Services
Bureau of Emergency Medical Services and Trauma System
150 N. 18th Ave., Suite 540
Phoenix, AZ 85007-3248
Telephone: (602) 364-3150
Fax: (602) 364-3568
E-mail: Terry.Mullins@azdhs.gov
or
Name: Robert Lane, Interim Manager
Address: Arizona Department of Health Services
Office of Administrative Counsel and Rules
1740 W. Adams, Suite 203
Phoenix, AZ 85007
Telephone: (602) 542-1020
Fax: (602) 364-1150
E-mail: Robert.Lane@azdhs.gov
6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:
Arizona Revised Statutes (A.R.S.) § 36-2205(A) requires the Department to establish protocols governing "medical treatments, procedures, medications and techniques which may be administered or performed by each class of emergency medical care technician." A.R.S. § 36-2205(B) gives the Arizona Department of Health Services (Department) exempt rulemaking authority to establish these protocols. These protocols for medical treatments, procedures, medications, and techniques are established in Arizona Administrative Code (A.A.C.) Title 9, Chapter 25, Article 5. A.R.S. § 36-2228, as added by Laws 2015, Ch. 313, § 4, states that an emergency medical care technician may administer naloxone "to a person who the emergency medical care technician ... believes is suffering from an opiate-related drug overdose." Currently, emergency medical technicians, the lowest classification of emergency medical care technicians, are not authorized in 9 A.A.C. 25, Article 5, to administer naloxone. After receiving an exception from the rulemaking moratorium established by Executive Order 2015-01, the Department has amended the rules in 9 A.A.C. 25, Article 5, to make the rules consistent with Laws 2015, Ch. 313. The Emergency Medical Services Council and the Medical Direction Commission, established by A.R.S. §§ 36-2203 and 36-



2203.01, respectively, have reviewed and approved the changes to the protocols.

- 7. **A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
The Department did not review or rely on any study related to this rulemaking package.
- 8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. **The summary of the economic, small business, and consumer impact, if applicable:**
Not applicable
- 10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package (if applicable):**
Not applicable
- 11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
Not applicable
- 12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
 - a. **Whether the rule requires a permit, whether a general permit is used and, if not, the reasons why a general permit is not used:**
Not applicable
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and, if so, citation to the statutory authority to exceed the requirements of federal law:**
Not applicable
 - c. **Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:**
Not applicable
- 13. **A list of any incorporated by reference material and its location in the rule:**
None
- 14. **Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**
The rule was not previously made, amended, repealed, or renumbered as an emergency rule.
- 15. **The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES
EMERGENCY MEDICAL SERVICES

ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL CARE TECHNICIANS

Section

- Table 5.1 Arizona Scope of Practice Skills
- Table 5.2 Eligibility for Authorization to Administer, Monitor, and Assist in Patient Self-administration of Agents by EMCT Classification; Administration Requirements; and Minimum Supply Requirements for Agents



ARTICLE 5. MEDICAL DIRECTION PROTOCOLS FOR EMERGENCY MEDICAL CARE TECHNICIANS

Table 5.1. Arizona Scope of Practice Skills

KEY:

- ✓ = Arizona Scope of Practice skill
- STR = STR skill
- * = Already intubated

Airway/Ventilation/Oxygenation	EMT	AEMT	EMT-I(99)	Paramedic
Airway- esophageal	STR	✓	✓	✓
Airway- supraglottic	STR	✓	✓	✓
Airway- nasal	✓	✓	✓	✓
Airway- oral	✓	✓	✓	✓
Automated transport ventilator	STR	STR	✓	✓
Bag-valve-mask (BVM)	✓	✓	✓	✓
BiPAP/CPAP				✓
Chest decompression- needle			✓	✓
Chest tube placement- assist only				STR
Chest tube monitoring and management				STR
Cricoid pressure (Sellick's maneuver)	✓	✓	✓	✓
Cricothyrotomy- needle			STR	✓
Cricothyrotomy- percutaneous			STR	✓
Cricothyrotomy- surgical			STR	STR
Demand valve- manually triggered ventilation	✓	✓	✓	✓
End tidal CO2 monitoring/capnography			✓	✓
Gastric decompression- NG tube			✓	✓
Gastric decompression- OG tube			✓	✓
Head-tilt chin lift	✓	✓	✓	✓
Intubation- nasotracheal			STR	✓
Intubation- orotracheal	STR	STR	✓	✓
Jaw-thrust	✓	✓	✓	✓
Jaw-thrust – modified (trauma)	✓	✓	✓	✓
Medication Assisted Intubation (paralytics)				STR
Mouth-to-barrier	✓	✓	✓	✓
Mouth-to-mask	✓	✓	✓	✓
Mouth-to-mouth	✓	✓	✓	✓
Mouth-to-nose	✓	✓	✓	✓
Mouth-to-stoma	✓	✓	✓	✓
Obstruction- direct laryngoscopy			✓	✓
Obstruction- manual	✓	✓	✓	✓
Oxygen therapy - humidifiers	✓	✓	✓	✓
Oxygen therapy - nasal cannula	✓	✓	✓	✓
Oxygen therapy - non-rebreather mask	✓	✓	✓	✓



	Oxygen therapy - partial rebreather mask	✓	✓	✓	✓
	Oxygen therapy - simple face mask	✓	✓	✓	✓
	Oxygen therapy - venturi mask	✓	✓	✓	✓
	PEEP - therapeutic			✓	✓
	Pulse oximetry	✓	✓	✓	✓
	Suctioning - upper airway	✓	✓	✓	✓
	Suctioning - tracheobronchial		✓*	✓	✓
Cardiovascular/Circulation		EMT	AEMT	EMT-I (99)	Paramedic
	Cardiac monitoring - multiple lead (interpretive)			✓	✓
	Cardiac monitoring - single lead (interpretive)			✓	✓
	Cardiac - multiple lead acquisition (non-interpretive)	STR	STR	✓	✓
	Cardiopulmonary resuscitation	✓	✓	✓	✓
	Cardioversion - electrical			✓	✓
	Carotid massage – (≤17 years)			STR	STR
	Defibrillation - automatic/semi-automatic	✓	✓	✓	✓
	Defibrillation - manual			✓	✓
	Hemorrhage control - direct pressure	✓	✓	✓	✓
	Hemorrhage control - tourniquet	✓	✓	✓	✓
	Internal; cardiac pacing - monitoring only			✓	✓
	Mechanical CPR device	STR	STR	STR	STR
	Transcutaneous pacing - manual			✓	✓
Immobilization		EMT	AEMT	EMT-I (99)	Paramedic
	Spinal immobilization - cervical collar	✓	✓	✓	✓
	Spinal immobilization - long board	✓	✓	✓	✓
	Spinal immobilization - manual	✓	✓	✓	✓
	Spinal immobilization - seated patient (KED, etc.)	✓	✓	✓	✓
	Spinal immobilization - rapid manual extrication	✓	✓	✓	✓
	Extremity stabilization - manual	✓	✓	✓	✓
	Extremity splinting	✓	✓	✓	✓
	Splint- traction	✓	✓	✓	✓
	Mechanical patient restraint	✓	✓	✓	✓
	Emergency moves for endangered patients	✓	✓	✓	✓
Medication administration - routes		EMT	AEMT	EMT-I (99)	Paramedic
	Aerosolized/nebulized (beta agonist)	STR	✓	✓	✓
	Assisting patient with his/her own prescribed medications (aerosolized/nebulized)	✓	✓	✓	✓
	Assisting patient with his/her own prescribed medications (ASA/Nitro)	✓	✓	✓	✓
	Assisting patient with his/her own prescribed medications (auto-injector)	✓	✓	✓	✓



Assisting patient with his/her own prescribed medications (hydrocortisone sodium succinate)		✓	✓	✓
Auto-injector (self or peer)	STR	✓	✓	✓
Buccal	STR	✓	✓	✓
Endotracheal tube			✓	✓
Inhaled self-administered (nitrous oxide)		✓	✓	✓
Intradermal			STR	STR
Intramuscular		✓	✓	✓
Intranasal	<u>STR</u>	✓	✓	✓
Intravenous push		✓	✓	✓
Intravenous piggyback			✓	✓
Intraosseous		STR	✓	✓
Nasogastric				✓
Oral	✓	✓	✓	✓
Rectal		STR	✓	✓
Small volume nebulizer	STR	✓	✓	✓
Subcutaneous		✓	✓	✓
Sublingual		✓	✓	✓
IV initiation/maintenance fluids	EMT	AEMT	EMT-I (99)	Paramedic
Access indwelling catheters and implanted central IV ports				✓
Central line- monitoring				✓
Intraosseous- initiation		✓	✓	✓
Intravenous access		✓	✓	✓
Intravenous initiation- peripheral	STR	✓	✓	✓
Intravenous- maintenance of non-medicated IV fluids or capped access	✓	✓	✓	✓
Intravenous- maintenance of medicated IV fluids			✓	✓
Umbilical initiation				STR
Miscellaneous	EMT	AEMT	EMT-I (99)	Paramedic
Assisted delivery (childbirth)	✓	✓	✓	✓
Assisted complicated delivery (childbirth)	✓	✓	✓	✓
Blood glucose monitoring	✓	✓	✓	✓
Blood pressure- automated	✓	✓	✓	✓
Blood pressure- manual	✓	✓	✓	✓
Eye irrigation	✓	✓	✓	✓
Eye irrigation (Morgan lens)				STR
Thrombolytic therapy- initiation				STR
Urinary catheterization				STR
Venous blood sampling			✓	✓
Blood chemistry analysis				STR



Use/monitoring of agents specified in Table 5.4 during interfacility transports			STR	STR
Use/monitoring of infusion pump for agent administration during interfacility transports			STR	STR

Table 5.2. Eligibility for Authorization to Administer, Monitor, and Assist in Patient Self-administration of Agents by EMCT Classification; Administration Requirements; and Minimum Supply Requirements for Agents

KEY:

- A = Authorized to administer the agent
- SVN = Agent shall be administered by small volume nebulizer
- MDI = Agent shall be administered by metered dose inhaler
- * = Authorized to assist in patient self-administration
- [] = Minimum supply required if an EMS provider chooses to make the optional agent available for EMCT administration

AGENT	MINIMUM SUPPLY	EMT	AEMT	EMT-I (99)	Paramedic
Adenosine	18 mg	-	-	A	A
Albuterol Sulfate SVN or MDI (sulfite free)	10 mg	A	A	A	A
Amiodarone or Lidocaine	300 mg	-	-	-	A
	or 3 prefilled syringes, total of 300 mg and 1 g vials or pre-mixed infusion, total of 2 g	-	-	A	A
Aspirin	324 mg	A	A	A	A
Atropine Sulfate	3 prefilled syringes, total of 3 mg	-	-	A	A
Atropine Sulfate	Optional [8 mg multidose vial (1)]	-	-	A	A
Atropine Sulfate Auto-Injector	None	A	A	A	A
Atropine Sulfate and Pralidoxime Chloride (Combined) Auto-Injector	None	A	A	A	A
Calcium Chloride	1 g	-	-	-	A
Calcium Gluconate, 2.5% topical gel	Optional [50 g]	A	A	A	A
Charcoal, Activated (without sorbitol)	Optional [50 g]	A	A	A	A
Cyanokit	Optional [5 g]	-	-	-	A
Dexamethasone	Optional [8 mg]	-	-	A	A
Dextrose	50 g	-	A	A	A
Dextrose, 5% in H2O	Optional [250 mL bag (1)]	A	A	A	A
Diazepam or Lorazepam or Midazolam	20 mg	-	-	A	A
	8 mg	-	-	A	A
	10 mg	-	-	A	A
Diazepam Rectal Delivery Gel	Optional [20 mg]	-	-	A	A
Diltiazem or Verapamil HCl	25 mg	-	-	-	A
	10 mg	-	-	-	A
Diphenhydramine HCl	50 mg	-	-	A	A
Dopamine HCl	400 mg	-	-	-	A
Epinephrine Auto-Injector	Optional [2 adult auto-injectors 2 pediatric auto-injectors]	A	A	A	A
Epinephrine HCl, 1:1,000	2 mg	-	A	A	A
Epinephrine HCl, 1:1,000	Optional [30 mg multidose vial (1)]	-	A	A	A



Epinephrine HCl, 1:10,000	5 mg	-	-	A	A
Etomidate	Optional [40 mg]	-	-	-	A
Furosemide or Bumetanide	Optional [100 mg] Optional [4 mg]	-	-	A	A
Glucagon	2 mg	-	A	A	A
Glucose, oral	Optional [30 gm]	A	A	A	A
Hemostatic Agents	Optional	A	A	A	A
Hydrocortisone Sodium Succinate	Optional	-	*	*	*
Immunizing Agent	Optional	-	-	A	A
Ipratropium Bromide 0.02% SVN or MDI	5 mL	-	-	A	A
Ketamine	Optional [200 mg]	-	-	-	A
Lactated Ringers	1 L bag (2)	A	A	A	A
Magnesium Sulfate	5 g	-	-	-	A
Methylprednisolone Sodium Succinate	250 mg	-	-	A	A
Morphine Sulfate or Fentanyl	20 mg 200 mcg	-	A	A	A
Nalmefene HCl	Optional [4 mg]	-	A	A	A
Naloxone HCl	10 mg	-	A	A	A
Naloxone HCl	Optional [Prefilled atomizers or auto-injectors: 2 doses]	Δ	Δ	Δ	Δ
Nitroglycerin Sublingual Spray or Nitroglycerin Tablets	1 bottle 1 bottle	* *	A A	A A	A A
Normal Saline	1 L bag (2) Optional [250 mL bag (1)] Optional [50 mL bag (2)]	A	A	A	A
Ondansetron HCl	Optional [4 mg]	-	-	A	A
Oxygen	13 cubic feet	A	A	A	A
Oxytocin	Optional [10 units]	-	-	A	A
Phenylephrine Nasal Spray 0.5%	Optional 1 bottle	-	-	A	A
Pralidoxime Chloride Auto-Injector	None	A	A	A	A
Proparacaine Ophthalmic	Optional [1 bottle]	-	-	A	A
Rocuronium	Optional [100 mg]	-	-	-	A
Sodium Bicarbonate 8.4%	Optional [100 mEq]	-	-	A	A
Succinylcholine	Optional [400 mg]	-	-	-	A
Thiamine HCl	100 mg	-	-	A	A
Tuberculin PPD	Optional [5 mL]	-	-	A	A
Vasopressin	Optional [40 units]	-	-	-	A

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 21. CHILD SAFETY

CHAPTER 3. DEPARTMENT OF CHILD SAFETY – CENTRALIZED INTAKE HOTLINE

[R15-190]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article 1	New Article
R21-3-101	New Section
Article 2	New Article



R21-3-201	New Section
R21-3-202	New Section
R21-3-203	New Section
R21-3-204	New Section

- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
 Authorizing statute: A.R.S. § 8-453(A)(5)
 Implementing statute: A.R.S. §§ 8-454 and 8-455
 Statute or session law authorizing the exemption: Laws 2014, Second Special Session, Ch. 1, § 158
- 3. The effective date of the rule and the agency's reason it selected the effective date:**
 January 26, 2016
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
 Notice of Public Information: 21 A.A.R. 1646, August 21, 2015
 Notice of Oral Proceeding: 21 A.A.R. 1649, August 21, 2015
- 5. The agency's contact person who can answer questions about the rulemaking:**
 Name: Carrie Senseman, Lead Rules Analyst
 Address: Arizona Department of Child Safety
 Policy Office
 3003 N. Central Ave., 23rd Floor
 Phoenix, AZ 85012
 P.O. Box 6030, Site Code: C010-23
 Phoenix, AZ 85005-6030
 Telephone: (602) 255-2534
 Fax: (602) 255-3264
 E-mail: csenseman@azdes.gov
 Web site: <https://dcs.az.gov/about/dcs-rules-rulemaking>
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
 A.R.S. § 8-454 requires the Director of the Department of Child Safety to organize the Department to receive reports alleging child abuse or neglect. A.R.S. § 8-455 requires the Department to operate a Centralized Intake Hotline for the purpose of receiving reports of alleged child abuse or neglect.
 Laws 2014, Second Special Session, Ch. 1, § 158 exempts the Department from the rulemaking requirements in A.R.S. Title 14, Chapter 6 until November 28, 2015, in order to "Adopt rules to implement the purposes of the Department and the duties and powers of the director." The Department received an exception from the Governor's rulemaking moratorium, established by Executive Order 2015-01, for this rulemaking and has added Articles 1 and 2. The rules conform to the current rulemaking format and style requirements of the Office of the Secretary of State.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
 None
- 8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
 Not applicable
- 9. The summary of the economic, small business, and consumer impact, if applicable:**
 The Department was exempted from Title 41, Chapter 6, and therefore no Economic Impact Statement is required.
- 10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**
 Not applicable
- 11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
 The Department's exemption from rulemaking required the Department to provide public notice and an opportunity for public comment in writing and at two or more public comment hearings. The exemption did not require the Department to post its responses to the public comments. However, the Department provides the following information on the public comment hearings and public comment.
 A copy of each rule draft was posted to the Department's website from August 3, 2015 to September 15, 2015 along



with an on-line survey to obtain public comments. Public hearings on these rules were held on September 8, 2015 in Tucson and September 14, 2015 in Phoenix. Attendees were provided the opportunity to provide oral or written comments.

Public comments were received at the public hearings, from the on-line surveys, and in the U.S. Mail. Areas that were commented on for Article 1, (Definitions), included the language used to define key terms in the rules such as “criminal offense,” “investigation,” “finding,” “reporting source,” and “response time.”

Comments received for Article 2, (Receipt and Screening of Communications), included recommendations for the language used to describe the Department’s process for transmitting reports of child abuse and neglect to the field unit, identification of which types of communications would not be considered reports, and the Centralized Intake Hotline’s quality assurance process.

The Department had an additional meeting with stakeholders on November 2, 2015 to obtain greater clarification and additional stakeholder input on the draft rules. The Department reviewed all written comments received on-line and in the U.S. Mail and incorporated comments where applicable in the final rule package. Stakeholders were provided another opportunity to review and comment on the rules prior to preparation of the final rule package.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

42 U.S.C. 5106a. The rules are not more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 21. CHILD SAFETY

CHAPTER 3. DEPARTMENT OF CHILD SAFETY CENTRALIZED INTAKE HOTLINE

ARTICLE 1. DEFINITIONS

Section
R21-3-101. Definitions

ARTICLE 2. RECEIPT AND SCREENING OF COMMUNICATIONS

Section
R21-3-201. Receipt of Information: Centralized Intake Hotline
R21-3-202. Preliminary Screening
R21-3-203. Disposition of Communications
R21-3-204. Quality Assurance

ARTICLE 1. DEFINITIONS

R21-3-101. Definitions

The definitions in A.R.S. §§ 8-101, 8-201, 8-501, 8-455, 8-531 and 8-801, and the following definitions apply in this Chapter and Title 21, Chapter 4:

1. “Abuse” means the same as in A.R.S. § 8-201.
2. “Centralized Intake Hotline” or “the Hotline” means the same as in A.R.S. § 8-455.
3. “Child” means the same as in A.R.S. § 8-101.
4. “Child Safety Specialist” means the same as “child safety worker” as in A.R.S. § 8-801.
5. “Child safety services” means the same as in A.R.S. § 8-801.
6. “Child welfare agency” means the same as in A.R.S. § 8-501.
7. “Criminal conduct allegation” means the same as in A.R.S. § 8-201.



8. “Criminal investigation” means an investigation of criminal allegations conducted by a law enforcement agency.
9. “Criminal offense” means an allegation of abuse and neglect perpetrated by someone other than a parent, guardian, custodian, or other adult member of the child’s household that, if true, would constitute a felony offense.
10. “Custodian” means a person defined in A.R.S. § 8-201.
11. “DCS Investigator” means a DCS employee who investigates allegations of child abuse or neglect pursuant to A.R.S. §§ 8-456 and 8-471.
12. “DCS Report” means a communication received by the Centralized Intake Hotline that alleges child abuse or neglect that meets the criteria for a report as set forth in A.R.S. § 8-455.
13. “Department” or “DCS” means the Arizona Department of Child Safety.
14. “Finding” means one of the following:
 - a. The Department has determined during its investigation that probable cause exists to substantiate the allegation of abuse or neglect of a child, and
 - i. The specific person responsible has been identified, or
 - ii. The specific person responsible has not been identified.
 - b. The Department has determined during its investigation that the allegation of abuse or neglect is unsubstantiated; or
 - c. After a thorough search, the Department is unable to locate the alleged abused or neglected child.
15. “Guardian” means the same as a person who has the duty and authority of a “Guardianship of the person” in A.R.S. § 8-531.
16. “Household member” means a parent, guardian, custodian, or an adult who at the time of the alleged abuse or neglect resided in the child victim’s home.
17. “Incoming communication” or “communication” means contact with DCS concerning alleged abuse or neglect of a child by any method that is received by or ultimately directed to the Centralized Intake Hotline.
18. “Intake Specialist” means the same as “hotline worker” in A.R.S. § 8-455 and means an employee of the Department trained in Centralized Intake Hotline procedures.
19. “Investigation” means using investigative techniques to search out and examine the facts to determine whether a child has been abused or neglected as provided for in A.R.S. §§ 8-456 and 8-471.
20. “Investigative protocols,” also called “Joint investigative protocols” and “Multi-disciplinary Protocols,” means a guide for the conduct of criminal conduct investigations mandated by A.R.S. § 8-817.
21. “Neglect” or “neglected” means the same as in A.R.S. § 8-201.
22. “OCWI Investigator” means a DCS Investigator who is assigned to the Office of Child Welfare Investigations, and whose primary duties and responsibilities are prescribed in A.R.S. § 8-471.
23. “Other child in the home” means a child residing in the same home as either the alleged child victim or the alleged perpetrator at the time of the alleged abuse or neglect.
24. “Out-of-Home placement” means the same as in A.R.S. § 8-501.
25. “Parent” means the same as in A.R.S. § 8-501.
26. “Probable cause” means some credible evidence that abuse or neglect occurred.
27. “PSRT” means the Department’s Protective Services Review Team that administers the process described in A.R.S. § 8-811 for review and appeal of proposed substantiated findings of child abuse or neglect.
28. “Reporting Source” means a person who reports child abuse or neglect to the Department or to a peace officer as prescribed in A.R.S. § 13-3620, even if the communication does not meet the criteria for a DCS report as set forth in A.R.S. § 8-455.
29. “Response time” means the period of time designated by the Hotline and begins when a DCS report is assigned to a DCS field unit for investigation and ends when the DCS Investigator initiates the investigation by an attempt to make in-person contact with the alleged child victim. Any proposed changes to the response time shall be submitted to the DCS Community Advisory Committee as established in A.R.S. § 8-459 for review and discussion prior to implementation.
30. “Safe haven provider” means the same as in A.R.S. § 13-3623.01.
31. “Substantiated” means that there is probable cause to believe the child was abused or neglected.
32. “Temporary custody” means the same as in A.R.S. § 8-821.
33. “Unsubstantiated” means that there was insufficient evidence to substantiate that the child was abused or neglected when the finding was entered into the Department’s case management information system.

ARTICLE 2. RECEIPT AND SCREENING OF COMMUNICATIONS

R21-3-201. Receipt of Information; Centralized Intake Hotline

- A.** The Department shall operate a Centralized Intake Hotline to receive and screen communications of suspected abuse or neglect of a child.
- B.** The Department shall publicize on the Department’s website the availability and the purposes of the Centralized Intake Hotline.
- C.** The Department shall accept an anonymous communication if the source refuses to provide identifying and contact information.



D. When the Centralized Intake Hotline receives an incoming communication, the Intake Specialist shall gather relevant information to determine whether it meets the criteria for a DCS Report as prescribed in A.R.S. § 8-455.

R21-3-202. Preliminary Screening

The following allegations standing alone do not meet the criteria for a DCS Report unless the communication also includes an allegation of child abuse or neglect as defined in A.R.S. § 8-201 and otherwise meets the criteria as set forth in A.R.S. § 8-455:

1. The child is absent from school;
2. The child is age eight years or older and has allegedly committed a delinquent act;
3. The sibling of a child eight years or older has allegedly committed a delinquent act;
4. The sibling or other child living in the home who is age eight years or older allegedly committed a delinquent act against the alleged child victim;
5. The child's parents are absent from the home or are unable to care for the child but made appropriate arrangements for the child's care;
6. The child is receiving treatment from an accredited Christian Science practitioner, or other religious or spiritual healer, but the child's health is not:
 - a. In imminent risk of harm; or
 - b. Endangered by the lack of medical care;
7. The child has minor hygienic problems;
8. The child is the subject of a custody or visitation dispute;
9. The spiritual neglect of a child or the religious practices or beliefs to which a child is exposed;
10. The child's parent, guardian, or custodian questions the use of or refuses to put the child on psychiatric medication but the child's health is not:
 - a. In imminent risk of harm; or
 - b. Endangered by the refusal to put the child on the recommended psychiatric medicine; or
11. The child is an unharmed newborn infant, who is seventy-two hours of age or younger, and whose parent or agent of the parent voluntarily delivered the parent's newborn to a safe haven provider as provided in A.R.S. §§ 8-528 and 13-3623.01.

R21-3-203. Disposition of Communications

A. DCS Report. If a communication meets criteria for a DCS Report, the Intake Specialist shall:

1. Enter the DCS Report information into the Department's case management information system;
2. Assign an appropriate response time, ranging from an immediate response to a response time not to exceed seven days;
3. Immediately transmit the DCS Report to the appropriate field unit; and
4. Inform the reporting source that the information meets criteria for a DCS Report, that the report will be sent to a field unit, and provide the reporting source, when identified, with contact information for the field unit.

B. Non-report. If a communication does not meet criteria for a DCS Report, the Intake Specialist:

1. Shall record the information regarding a child who is already in the Department's care, custody, and control, and forward it to the Child Safety Specialist managing that child's case;
2. Shall advise the reporting source to notify the appropriate law enforcement agency of an allegation of child abuse or neglect by a person other than a child's parent, guardian, custodian, or adult member of the household;
3. Shall inform the reporting source that the information does not meet criteria for a DCS Report, and that the information will be documented in the Department's case management information system; and
4. May refer the reporting source to a community resource, when appropriate.

C. Forwarding information on non-DCS Reports. If a communication does not meet criteria for a DCS Report, the Intake Specialist shall forward the information or allegations of abuse or neglect to:

1. The appropriate law enforcement agency concerning a felony criminal offense against a child;
2. The DCS Office of Licensing and Regulation, if the communication involves a DCS licensed out-of-home placement;
3. The appropriate child protection agency, if the child lives in another jurisdiction;
4. The appropriate licensing or certifying agency if a child is at a state licensed or certified child care home or facility;
5. The appropriate licensing agency if a child is at a state licensed behavioral health facility; or
6. The Arizona Department of Economic Security (DES) Adult Protective Services if the alleged victim is over the age of 18 years.

R21-3-204. Quality Assurance

The Department shall conduct a review at least weekly of communications concerning alleged abuse or neglect of a child, which do not meet criteria for a DCS Report, to verify the communications are properly classified.



NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 21. CHILD SAFETY

CHAPTER 4. DEPARTMENT OF CHILD SAFETY – RESPONSE TO REPORTS

[R15-191]

PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| Article 1 | New Article |
| R21-4-101 | New Section |
| R21-4-102 | New Section |
| R21-4-103 | New Section |
| R21-4-104 | New Section |
| R21-4-105 | New Section |
| R21-4-106 | New Section |
| R21-4-107 | New Section |
| R21-4-108 | New Section |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:**
 Authorizing statute: A.R.S. § 8-453(A)(5)
 Implementing statute: A.R.S. §§ 8-454 and 8-471
 Statute or session law authorizing the exemption: Laws 2014, Second Special Session, Ch. 1, § 158
- 3. The effective date of the rule and the agency’s reason it selected the effective date:**
 January 26, 2016
- 4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**
 Notice of Public Information: 21 A.A.R. 1646, August 21, 2015
 Notice of Oral Proceeding: 21 A.A.R. 1649, August 21, 2015
- 5. The agency’s contact person who can answer questions about the rulemaking:**
 Name: Carrie Senseman, Lead Rules Analyst
 Address: Arizona Department of Child Safety
 Policy Office
 3003 N. Central Ave., 23rd Floor
 Phoenix, AZ 85012
 P.O. Box 6030, Site Code: C010-23
 Phoenix, AZ 85005-6030
 Telephone: (602) 255-2534
 Fax: (602) 255-3264
 E-mail: csenseman@azdes.gov
 Web site: <https://dcs.az.gov/about/dcs-rules-rulemaking>
- 6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
 A.R.S. § 8-454 requires the Director of the Department of Child Safety to organize the Department to respond to reports alleging child abuse or neglect. A.R.S. § 8-456 requires the Department of Child Safety to train investigators, to conduct an investigation of reports of child abuse or neglect received from the Centralized Intake Hotline, and to document the results of the investigation. A.R.S. § 8-471 requires the Department to hire and train investigators to investigate allegations of child abuse or neglect that involve criminal conduct.
 Laws 2014, Second Special Session, Ch. 1, § 158 exempts the Department from the rulemaking requirements of in A.R.S. Title 14, Chapter 6 until November 28, 2015, in order to “Adopt rules to implement the purposes of the Department and the duties and powers of the director.” The Department received an exception from the Governor’s rulemaking moratorium, established by Executive Order 2015-01, for this rulemaking and has added Article 1. The rules conform to the current rulemaking format and style requirements of the Office of the Secretary of State.



7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact, if applicable:

Not applicable

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

The Department’s exemption from rulemaking required the Department to provide public notice and an opportunity for public comment in writing and at two or more public comment hearings. The exemption did not require the Department to post its responses to the public comments. However, the Department provides the following information on the public comment hearings and public comment.

A copy of each rule draft was posted to the Department’s website from August 3, 2015 to September 15, 2015 along with an on-line survey to obtain public comments. Public hearings on these rules were held on September 8, 2015 in Tucson and September 14, 2015 in Phoenix. Attendees were provided the opportunity to provide oral or written comments. Comments were received at the public hearings, via the Department’s website and in the U.S. Mail. Concerns were shared and language proposed to cover the role, actions, and responsibilities of an investigator employed by the Department of Child Safety and the quality assurance process of the Department for conducting investigations.

The Department had an additional meeting with stakeholders on November 2, 2015 to obtain greater clarification and additional stakeholder input on the draft rules. The Department reviewed all written comments received on-line and in the U.S. Mail and incorporated comments where applicable in the final rule package. Stakeholders were provided another opportunity to review and comment on the rules prior to preparation of the final rule package.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

42 U.S.C. 5106a. The rules are not more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 21. CHILD SAFETY

CHAPTER 4. DEPARTMENT OF CHILD SAFETY – RESPONSE TO REPORTS

ARTICLE 1. INVESTIGATIONS

Section	
<u>R21-4-101.</u>	<u>Definitions</u>
<u>R21-4-102.</u>	<u>Response Times</u>
<u>R21-4-103.</u>	<u>Methods of Investigation</u>
<u>R21-4-104.</u>	<u>Coordination With Law Enforcement</u>



R21-4-105.	<u>Investigation Findings: Required Documentation</u>
R21-4-106.	<u>Ongoing Services: Case Closure</u>
R21-4-107.	<u>Procedures for Temporary Custody</u>
R21-4-108.	<u>Quality Assurance</u>

ARTICLE 1. INVESTIGATIONS

R21-4-101. Definitions

The definitions in A.R.S. §§ 8-101, 8-201, 8-455, 8-501, 8-531, and 8-801, and R21-3-101 apply in this Chapter.

R21-4-102. Response Times

The DCS Investigator shall respond to the DCS report as required under R21-3-203.

R21-4-103. Methods of Investigation

- A.** DCS shall investigate or respond to each DCS Report by interviewing or personally observing the alleged child victim, interviewing other children and individuals, reviewing documents, and using other accepted investigative techniques, as necessary, to gather sufficient information to:
1. Determine whether the child subject of the report is currently safe or unsafe;
 2. Support or refute the allegation of abuse or neglect;
 3. Determine the name, age, and condition of other children in the home; and
 4. Determine whether child safety services are needed.
- B.** DCS shall do the following to investigate each DCS report unless one or more of the circumstances listed in subsection (C) exist:
1. Contact the reporting source;
 2. Review prior DCS Reports concerning the alleged child victim;
 3. Review prior DCS Reports concerning the alleged perpetrator;
 4. Interview or facilitate the interview of the alleged child victim or personally observe the alleged child victim;
 5. Interview the alleged perpetrator;
 6. Interview all other adult household members and verbal children in the home who may have relevant information;
 7. Review available court orders that restrict contact with the child by a parent or other person in the home; and
 8. Use additional investigative methods based on the factual circumstance of the case.
- C.** If during the course of an investigation one or more of the following circumstances exists, DCS is not required to take all of the investigative actions otherwise required by this section:
1. The family exercises their right not to cooperate under A.R.S. § 8-803 or is unwilling or unable to cooperate;
 2. Other persons who may have relevant information are unwilling or unable to cooperate;
 3. The alleged victim is currently over the age of 18 years and the alleged perpetrator has no access to the other children in the household;
 4. The alleged child victim is deceased and no surviving child resides in the household;
 5. The alleged perpetrator resides outside Arizona and there is no indication or information that the alleged child victim or the other children in the household are currently being abused or neglected;
 6. The alleged abuse or neglect occurred more than three years ago and there is no indication or information that the alleged child victim or the other children in the household are currently being abused or neglected;
 7. The alleged child victim or the child victim's family cannot be located after DCS has made diligent efforts to locate;
 8. A law enforcement agency has investigated the specific allegations contained in the report and the Department has determined that the child is currently safe;
 9. A law enforcement or prosecutorial agency requests that the DCS Investigator not contact the alleged perpetrator or other persons with relevant information; or
 10. A federal or state law or court order prohibits or restricts DCS from fully investigating the report.
- D.** If during the course of an investigation the DCS Investigator gathers sufficient information to determine that the child is not a victim of abuse or neglect, the DCS Investigator may close the investigation.
- E.** A DCS Investigator shall collaborate with law enforcement when applicable.
- F.** A DCS Investigator may interview a child without the prior written consent of the parent, guardian, or custodian of the child as set forth in A.R.S. §§ 8-802 and 8-471.
- G.** A DCS Investigator may exclude a parent, guardian, custodian, household member, or any other individual from being present during an interview with the alleged victim, the alleged victim's siblings, or other children residing in the alleged victim's household.
- H.** If a DCS Investigator discovers evidence of other incidents of abuse or neglect that are not contained in the DCS Report, the DCS Investigator shall make a report to the Hotline regarding those incidents.
- I.** A DCS Investigator who is not assigned to OCWI may investigate a DCS Report containing criminal conduct allegations, as necessary. A DCS Investigator not assigned to OCWI will receive advanced training regarding joint investigation protocol per A.R.S. § 8-817 and forensic interview training as a prerequisite to investigating criminal conduct allegations. A DCS Investigator not assigned to OCWI should receive training consistent with A.R.S. § 8-471(D) if investigating criminal conduct allegations.
- J.** If an alleged child victim resides outside the Department's jurisdiction, the Department shall coordinate with the appro-



appropriate child protection agency in the jurisdiction where the child is located.

R21-4-104. Coordination With Law Enforcement

- A. In DCS Reports containing a criminal conduct allegation, a DCS Investigator shall coordinate with law enforcement pursuant to the applicable Joint Investigative Protocol. In DCS Reports that do not contain a criminal conduct allegation, a DCS Investigator shall coordinate with law enforcement as appropriate.
- B. When a DCS Investigator investigates a DCS Report containing allegations of criminal conduct across jurisdictions, the DCS Investigator shall follow the Joint Investigative Protocol of the jurisdiction where the lead investigative agency is located.

R21-4-105. Investigation Findings; Required Documentation

- A. After completing an investigation, the DCS Investigator or Child Safety Specialist shall propose substantiation if there is probable cause to believe a child was abused or neglected or, if not, shall unsubstantiate the allegation.
- B. A DCS Investigator or Child Safety Specialist shall document the finding and the reason in the case record.
- C. A DCS Supervisor shall review the proposed finding and shall notify PSRT of a proposed substantiation.
- D. DCS shall provide the parent, guardian, or custodian written notice of the outcome of the investigation.

R21-4-106. Ongoing Services; Case Closure

A DCS Investigator shall close a case if the investigation determines the child or children are not in need of child safety services, whether or not the allegations are substantiated or unsubstantiated.

R21-4-107. Procedures for Temporary Custody

- A. Using a uniform safety and risk assessment tool, a DCS Investigator shall determine whether the child can remain safely in the home or needs to be taken into temporary custody of the Department.
- B. Before taking temporary custody of a child, the Department shall consider whether the Department may:
 1. Help the family obtain resources such as emergency food, shelter, clothing, or utilities, so that the child may safely remain in the home;
 2. Enter into an agreement with the child’s parent, guardian, or custodian that provides for the alleged abuser to leave the home and for remaining family members to protect the child;
 3. Help the protective parent, guardian, or custodian and the child leave the home of the alleged abuser; and
 4. Place the child in a voluntary placement agreement as provided in A.R.S. § 8-806.
- C. A DCS Investigator shall submit the reasons for temporary custody and the supporting information to a DCS Supervisor and obtain approval from the DCS Supervisor prior to taking temporary custody of a child, except as provided in A.R.S. § 8-822.
- D. A DCS Investigator may take a child into temporary custody for a period of not more than 12 hours to have the child examined by a medical doctor or psychologist, if the circumstances indicate that there is reasonable likelihood to believe that a child has suffered serious physical or emotional harm as provided in A.R.S. § 8-821.
- E. Under A.R.S. § 8-515.05, a DCS Investigator may remove a foster child from an out-of-home placement on an emergency basis to protect the child from harm or risk of harm without prior notification of the Department’s intent to remove.

R21-4-108. Quality Assurance

DCS shall conduct regular reviews of responses to reports to verify that investigations are properly conducted and procedures for temporary custody are followed.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 21. CHILD SAFETY

CHAPTER 5. DEPARTMENT OF CHILD SAFETY – PERMANENCY AND SUPPORT SERVICES

[R15-186]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article 2	New Article
R21-5-201	New Section
R21-5-202	New Section
R21-5-203	New Section
R21-5-204	New Section
R21-5-205	New Section
R21-5-206	New Section
R21-5-207	New Section
R21-5-208	New Section
R21-5-209	New Section



Article 3	New Article
R21-5-301	New Section
R21-5-302	New Section
R21-5-303	New Section
R21-5-304	New Section
R21-5-305	New Section
R21-5-306	New Section
R21-5-307	New Section
R21-5-308	New Section
Article 4	New Article
R21-5-401	New Section
R21-5-402	New Section
R21-5-403	New Section
R21-5-404	New Section
R21-5-405	New Section
R21-5-406	New Section
R21-5-407	New Section
R21-5-408	New Section
R21-5-409	New Section
R21-5-410	New Section
R21-5-411	New Section
R21-5-412	New Section
R21-5-413	New Section
R21-5-414	New Section
R21-5-415	New Section
R21-5-416	New Section
R21-5-417	New Section
R21-5-418	New Section
R21-5-419	New Section
R21-5-420	New Section
R21-5-421	New Section
R21-5-422	New Section
R21-5-423	New Section
Article 5	New Article
R21-5-501	New Section
R21-5-502	New Section
R21-5-503	New Section
R21-5-504	New Section
R21-5-505	New Section
R21-5-506	New Section
R21-5-507	New Section
R21-5-508	New Section
R21-5-509	New Section
R21-5-510	New Section
R21-5-511	New Section
R21-5-512	New Section
R21-5-513	New Section
R21-5-514	New Section

2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:

Authorizing statute: A.R.S. § 8-453(A)(5)

Implementing statutes: A.R.S. §§ 8-105, 8-112, 8-130, 8-133, 8-134, §§ 8-141 through 8-145, §§ 8-161 through 8-166, §§ 8-521, 8-521.01, 8-453(A)(18), 8-453(A)(9)(a)(iii), and A.R.S. § 8-453(A)(9)(c).

Statute or session law authorizing the exemption: Laws 2014, Second Special Session, Ch. 1, § 158

3. The effective date of the rule and the agency’s reason it selected the effective date:

January 24, 2016

4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:

Notice of Public Information: 21 A.A.R. 1051, July 10, 2015



Notice of Oral Proceeding: 21 A.A.R. 1055, July 10, 2015
Notice of Public Information: 21 A.A.R. 1267, July 31, 2015
Notice of Oral Proceeding, 21 A.A.R. 1269, July 31, 2015

5. The agency’s contact person who can answer questions about the rulemaking:

Name: Carrie Senseman, Lead Rules Analyst
Address: Arizona Department of Child Safety
Policy Office
3003 N. Central Ave., 23rd Floor
Phoenix, AZ 85012
P.O. Box 6030, Site Code: C010-23
Phoenix, AZ 85005-6030
Telephone: (602) 255-2534
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E-mail: csenseman@azdes.gov
Web site: https://dcs.az.gov/about/dcs-rules-rulemaking

6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:

A.R.S. § 8-521 and 8-453(A)(9)(a)(iii) authorize the Department to have and administer an Independent Living Program (ILP). A.R.S. § 8-521.01 and A.R.S. § 8-453(A)(18) authorize the Department to have and administer a Transitional Independent Living Program (TILP). A.R.S. § 8-105 describes the general duties and responsibilities of the Department and Adoption Agencies to assist in the certification of an adoptive parent, the general process for becoming certified to adopt and the requirement for adoptive parents to obtain a Level One fingerprint clearance card from the Arizona Department of Public Safety. A.R.S. § 8-112 describes the responsibility of the Department or an Officer of the Court to conduct a social study of each prospective adoptive parent. A.R.S. § 8-130 gives the Department the authority to conduct both agency placement adoptions and direct placement adoptions. A.R.S. § 8-133 permits the Department to charge fees to cover the cost of studying and certifying adoption applicants and for providing placement supervision services. A.R.S. § 8-134 describes who may use a confidential intermediary and the role and limitations of a confidential intermediary. If the Department is supplying the information to the confidential intermediary, then the actual and reasonable costs shall be paid to the Department. A.R.S. § 8-453(A)(9)(c) enables the Department to have the powers and duties to provide services for children placed in adoption. A.R.S. §§ 8-141 through 8-145 authorize the Department to provide an adoption subsidy for a person who adopts a child with special needs. A.R.S. §§ 8-161 through 8-166 authorize the Department to provide nonrecurring expenses to adoptive parents who have adopted a child with special needs as provided in A.R.S. § 8-141.

Laws 2014, Second Special Session, Ch. 1, § 158 exempts the Department from the rulemaking requirements in A.R.S. Title 14, Chapter 6 until November 28, 2015, in order to “Adopt rules to implement the purposes of the Department and the duties and powers of the director.” The Department received an exception from the Governor’s rulemaking moratorium, established by Executive Order 2015-01, for this rulemaking and has added Chapter 5, Articles 2, 3, 4, and 5. The rules conform to the current rulemaking format and style requirements of the Office of the Secretary of State.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact, if applicable:

The Department was exempted from Title 41, Chapter 6 and therefore no Economic Impact Statement was required.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

Not applicable

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

The Department’s exemption from rulemaking required the Department to provide public notice and an opportunity for public comment in writing and at two or more public comment hearings. The exemption did not require the Department to post its responses to the public comments. However, the Department provides the following information on the public comment hearings and public comment.



Public hearings for Article 2 (Independent and Transitional Independent Living Programs), were held on August 11, 2015 in Tucson and August 13, 2015 in Phoenix. Attendees were given the opportunity to provide oral or written comments. A draft copy of the Article 2, rule package was posted on the Department's website from July 10, 2015 to August 14, 2015, along with an on-line survey to obtain public comments. Comments received included requests to add exceptions to the school/work requirements for young adults who are adopting children, having children or have a medical or behavioral health condition or developmental disability that make it difficult to participate in the school/work requirement; clarification and timeframes of the Department's responsibility for re-entry opportunities for eligible youth; inclusion of tribal references where applicable; timeframes for preparing an individual case plan; and additional detail in rule for the notice to youth of the denial or termination of services and the process to grieve or appeal these Department actions. The Department had additional meetings with stakeholders on October 14, 2015 and November 19, 2015 to obtain greater clarification and additional stakeholder input on the draft rules. The Department reviewed all written comments received on-line and in the U.S. Mail and incorporated comments where applicable in the final rule package. Stakeholders were provided another opportunity to review and comment on the rules prior to preparation of the final rule package.

Public hearings for Article 3 (Department Adoption Services), and Article 4 (Adoption Entity Services) rule packages were held on July 20, 2015 in Tucson and July 21, 2015 in Phoenix. Public hearings for Article 5 (Adoption Subsidy), were held on August 11, 2015 in Tucson and August 13, 2015 in Phoenix. Attendees were given the opportunity to provide oral or written comments. No comments were received at these meetings for these rule packages. A copy of Article 3 and Article 4 draft rules were posted on the Department's website from June 17, 2015 to July 23, 2015, along with an on-line survey to obtain public comments. No comments were received for these rule packages during the public comment period. Four comments regarding the rule for fees for the preparation of a certification and investigation report and for performing a records search for a confidential intermediary in Article 3, were submitted after the public comment period. A copy of the Article 5 rule package was posted on the Department's website from July 10, 2015 to August 14, 2015, along with an on-line survey to obtain public comments. No comments were received for this rule package.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal laws, 42 U.S.C. 622, 42 U.S.C. 671, 42 U.S.C. 673, 42 U.S.C. 673b, 42 U.S.C. 675, 42 U.S.C. 677, 42 U.S.C. 5111, and 42 U.S.C. 5113 apply to this rulemaking. The rules are not more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

13. A list of any incorporated by reference material and its location in the rule:

None

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

The rules were not previously made, amended, repealed, or renumbered as an emergency rule.

15. The full text of the rules follows:

TITLE 21. CHILD SAFETY

**CHAPTER 5. DEPARTMENT OF CHILD SAFETY – PERMANENCY
AND SUPPORT SERVICES**

ARTICLE 2. INDEPENDENT LIVING AND TRANSITIONAL INDEPENDENT LIVING PROGRAMS

Section

<u>R21-5-201.</u>	<u>Definitions</u>
<u>R21-5-202.</u>	<u>Provision of Services</u>
<u>R21-5-203.</u>	<u>Denial of Services</u>
<u>R21-5-204.</u>	<u>Eligibility</u>
<u>R21-5-205.</u>	<u>Services for Foster Youth 18 through 20 Years of Age in Out-of-Home Care</u>
<u>R21-5-206.</u>	<u>Transitional Independent Living Program</u>
<u>R21-5-207.</u>	<u>Re-entry into Out-of-home Care</u>



- R21-5-208. Termination of Services
- R21-5-209. Grievance Process

ARTICLE 3. DEPARTMENT ADOPTION SERVICES

Section

- R21-5-301. Definitions
- R21-5-302. Adoption Registry; Information Maintained; Confidentiality
- R21-5-303. Department Adoption Services
- R21-5-304. Department Procedures for Presenting Certification Applications
- R21-5-305. Department Priorities for Receipt of Services
- R21-5-306. Department Recruitment Efforts
- R21-5-307. Fees; Waiver
- R21-5-308. Termination of Adoption Services

ARTICLE 4. ADOPTION ENTITY SERVICES

Section

- R21-5-401. Definitions
- R21-5-402. Recruitment
- R21-5-403. Orientation: Persons Interested in Adoption
- R21-5-404. Application for Certification
- R21-5-405. Certification Investigation
- R21-5-406. Certification Report and Recommendation
- R21-5-407. Renewal of Certification
- R21-5-408. Communication with Adoptive Parents Awaiting Placement
- R21-5-409. Prohibitions Regarding Birth Parents
- R21-5-410. Information about Birth Parents
- R21-5-411. Pre-consent Conference with Birth Parents
- R21-5-412. Consent to Adopt; Unknown Birth Parent
- R21-5-413. Adoptable Child: Assessment and Service Plan
- R21-5-414. Placement Determination
- R21-5-415. Provision of Information on a Placed Child
- R21-5-416. Transportation
- R21-5-417. Placement Services
- R21-5-418. Post-placement Supervision: Non-Foster Parent Placement
- R21-5-419. Post-placement Supervision: Foster Parent Placement
- R21-5-420. Protracted Placement
- R21-5-421. Finalizing the Placement
- R21-5-422. Placement Disruption
- R21-5-423. Confidentiality

ARTICLE 5. ADOPTION SUBSIDY

Section

- R21-5-501. Definitions
- R21-5-502. Eligibility Criteria
- R21-5-503. Application for Adoption Subsidy
- R21-5-504. Eligibility Determination
- R21-5-505. Adoption Subsidy Agreement
- R21-5-506. Medical, Dental, and Mental Health Subsidy
- R21-5-507. Maintenance Subsidy
- R21-5-508. Special Services Subsidy
- R21-5-509. Nonrecurring Adoption Expenses
- R21-5-510. Annual Review; Reporting Change
- R21-5-511. Termination of Adoption Subsidy
- R21-5-512. New or Amended Adoption Subsidy Agreement
- R21-5-513. Appeals
- R21-5-514. Confidentiality

ARTICLE 2. INDEPENDENT LIVING AND TRANSITIONAL INDEPENDENT LIVING PROGRAMS

R21-5-201. Definitions

The following definitions apply to this Article:

1. “Active participation” means the foster youth is demonstrating efforts toward completion of case plan goals such as regular attendance at school or employment that results in school credits or earned wages.
2. “Aftercare services” means assistance and support available to eligible, former foster youth living in Arizona after the Department, tribal foster care, or other state foster care case is dismissed, and includes services available through the Transitional Independent Living Program.
3. “Age of majority” means that a person is at least 18 years old.



4. “Approved living arrangement” means a residence that has been reviewed by the assigned Child Safety Worker or other responsible agency staff and approved within the individual case plan.
5. “Arizona Young Adult Program” means a group of programs and services designed to assist eligible youth to make a successful transition to adulthood. The programs and services include Independent Living Services, the Independent Living Subsidy Program, Voluntary Out-of-home Care for Foster Youth 18 through 20 Years of Age, and the Transitional Independent Living Program.
6. “Child placing agency” means the same as in A.R.S. § 8-501(A)(1)(a)(iii), and includes a Child Welfare Agency that OLR licenses as a Placing Agency to place a child in a licensed foster home, or facility.
7. “Child Welfare Agency” means the same as in A.R.S. § 8-501.
8. “Child Safety Worker” means the same as in A.R.S. § 8-801.
9. “Custody of the Department” means that the foster youth:
 - a. Is in out-of-home care under the supervision of the Department while the subject of a dependency petition, as an adjudicated dependent, or placed voluntarily under A.R.S. § 8-806; or
 - b. Is 18, 19, or 20 years of age, a resident of Arizona, and has signed an individual case plan agreement for voluntary out-of-home care. This includes foster youth who were dually adjudicated (dependent and delinquent) and released from a secure setting prior to, or on the foster youth’s 18th birthday.
10. “Department” or “DCS” means the Arizona Department of Child Safety.
11. “Eligible youth” means a person who meets the qualifications in A.R.S. § 8-521 for the Independent Living Program, the qualifications in A.R.S. § 8-521.01 for the Transitional Independent Living Program, or is a person who was formerly in another state’s child welfare program who would otherwise be eligible.
12. “Employment” means:
 - a. Paid employment;
 - b. Participation in employment-readiness activities, which include career assessment and exploration, and part time enrollment in an employment or career readiness education program;
 - c. Volunteer positions;
 - d. Job-shadowing;
 - e. Internship; or
 - f. Other paid or unpaid employment-related activities.
13. “Extraordinary purchase” means an expenditure by an eligible youth that impedes an eligible youth’s ability to meet the financial obligations outlined in the eligible youth’s budget.
14. “Foster youth” means a person in the custody of the Department.
15. “Full-time student” means an eligible youth enrolled in an education program identified by the program as being full-time due to the number of credits, credit hours, or other measure of enrollment.
16. “Independent Living Program” means the program authorized by A.R.S. § 8-521 to provide an Independent Living Subsidy and educational case management to a foster youth.
17. “Independent Living Services” or “IL Services” means an array of assistance and support services, including those provided under the Independent Living Program, that the Department provides, contracts, refers, or otherwise arranges that are designed to help a foster youth transition to adulthood by building skills and resources necessary to ensure personal safety, well-being, and permanency into adulthood.
18. “Independent Living Subsidy” or “IL Subsidy” means a monthly stipend provided under the Independent Living Program to a foster youth, to assist in meeting monthly living expenses. This stipend replaces any foster care maintenance payment from the Department for support of the foster youth’s daily living expenses.
19. “Individual case plan” means an agreement between an eligible foster youth and the Department, directed by the foster youth that documents specific services and assistance that support the foster youth’s goals in relation to:
 - a. Natural supports including permanent connections to and relationships with family and community, including peer and community mentors;
 - b. A safe, stable, desired living arrangement, which may include a permanent arrangement such as guardianship or adoption;
 - c. Daily living skills;
 - d. Secondary and postsecondary education and training;
 - e. Employment and career planning;
 - f. Physical health, including reproductive health;
 - g. Life care planning;
 - h. Emotional health;
 - i. Mental health;
 - j. Spiritual or faith needs;
 - k. Interpersonal relationships; and
 - l. Age-appropriate extra-curricular, enrichment, and social activities.
20. “Individual service plan” means an agreement that is directed by an eligible youth in the TIL Program that documents specific services and assistance to support the eligible youth’s goals including, as applicable:



- a. Financial.
 - b. Housing.
 - c. Counseling.
 - d. Employment.
 - e. Education, and
 - f. Other appropriate support and services.
21. “Life skills assessment” means a measure of an eligible youth’s ability to function in a variety of areas such as daily living skills, knowledge of community resources, and budgeting, as determined by a validated assessment tool.
 22. “Medical professional” means a doctor of medicine or osteopathy, physician’s assistant, or registered nurse practitioner licensed in A.R.S. Title 32, or a doctor of medicine licensed and authorized to practice in another state or foreign country. A medical professional from another state or foreign country must provide verification of valid and current licensure in that state or country.
 23. “Misuse of funds” means that an eligible youth has expended money provided by the Department for specific purposes (such as education or living expenses) on an item that is not permitted by law (such as illegal drugs and alcohol), or on an extraordinary purchase that is not included in an approved budget or individual case or service plan, to the degree that the funds are not available for necessary items and purchases approved within the case plan, service plan, or budget.
 24. “Natural supports” means relationships and connections that occur in everyday life, independent of formal services, with people or groups who provide personal or other support during a person’s lifetime.
 25. “Out-of-home care” means a placement approved by the Department such as a licensed foster home, residential group care facility operated by a Child Welfare Agency, therapeutic residential facility, independent living setting, approved unlicensed independent living setting, or in a relative or non-relative placement. Out-of-home care excludes a detention facility, forestry camp, training school, or any other facility operated primarily for the detention of a child who is determined delinquent.
 26. “Personal Crisis” means an unexpected event or series of events in an eligible youth’s life that prevents or impedes participation in scheduled services or activities.
 27. “Residential group care facility” means a Child Welfare Agency that is licensed to receive more than five children for 24-hour social, emotional, or educational supervised care and maintenance at the request of a child, child placing agency, law enforcement agency, parent, guardian, or court. A residential group care facility provides care in a residential setting for children for an extended period of time.
 28. “Responsible agency staff” means the assigned Child Safety Worker, another identified Department employee, or contracted staff.
 29. “Service team members” means the eligible youth, the youth’s attorney(s), the Guardian ad Litem (GAL), the Court Appointed Special Advocate (CASA), tribal child welfare staff, other parties to the dependency case, contract, or other service providers, responsible agency staff, and other adults involved with the youth or supporting the youth’s activities or employment.
 30. “Substantial non-compliance” means an eligible youth’s:
 - a. Termination from an educational, vocational, or employment program due to lack of attendance or failure to make satisfactory progress as defined by the program for reasons unrelated to physical health including pregnancy, emotional, or mental health;
 - b. Persistent lack of communication during a 60-day period with the assigned Child Safety Worker or other responsible agency staff known to the youth that results in a loss of contact with the eligible youth, or interferes with the Department’s ability to provide services and supervision or to document individual case plan or service plan progress;
 - c. Persistent misuse of funds provided to support individual case plan or service plan goals; or
 - d. For an eligible foster youth, failure to communicate unexpected changes in the living arrangement as agreed to in the individual case plan or the Independent Living Subsidy agreement.
 31. “Transitional Independent Living Program” or “TIL Program” means a program of services for residents of Arizona who are eligible youth under A.R.S. § 8-521.01, that provides assistance and support in counseling, education, vocation, employment, and the attainment or maintenance of housing.
 32. “Transitional Independent Living Services” or “TIL Services” means those services the Department provides through the Transitional Independent Living Program under A.R.S. § 8-521.01, and may include assistance and support with health care, money management, housing, counseling, education, vocational training, and employment. The Department or its contractors provide services through a written agreement with the eligible youth.
 33. “Validated assessment tool” means a written or verbal survey tool that can demonstrate empirical evidence for reliability and validity.
 34. “Work day” means Monday through Friday, excluding Arizona state holidays.
 35. “Young Adult Transitional Insurance” means a category of health care coverage under the state Medicaid program (Arizona Health Care Cost Containment System or AHCCCS) for Medicaid eligible youth who have reached the age of majority in foster care.

**R21-5-202. Provision of Services**

- A.** The Department shall provide services and stipends for the IL Services, IL Subsidy, and TIL services to eligible youth in a manner that is fair and equitable.
- B.** The Department shall provide Independent Living Services to eligible foster youth based on needs identified by the eligible foster youth, by service team recommendations, or the findings of a life skills assessment. The services shall address needs identified in the eligible foster youth's individual case plan and may include one or more of the following, depending on the individual case plan goals:
1. Information and assistance to create and maintain a network of natural supports;
 2. Independent living skills training;
 3. Program incentives;
 4. Information and assistance in life care and health care planning, including enrollment in a health plan;
 5. Educational, career, and vocational planning;
 6. Financial assistance for post-secondary education and training;
 7. Out-of-home care for foster youth 18 through 20 years of age; or
 8. Aftercare services through the Transitional Independent Living Program.

R21-5-203. Denial of Services

The Department shall deny services if a person does not meet the eligibility requirements of A.R.S. §§ 8-806, 8-521, 8-521.01, and R21-5-204.

R21-5-204. Eligibility

- A.** Independent Living Services. In order to be eligible for IL Services a person shall:
1. Be at least 16 years of age and less than 21 years of age;
 2. Be in the custody of the Department or tribal child welfare agency;
 3. Reside in out-of-home care;
 4. Be referred by the eligible youth's assigned Child Safety Worker, other Department staff, or a tribal social services representative; and
 5. Be a resident of Arizona if 18, 19, or 20 years of age.
- B.** Independent Living Subsidy.
1. In order to be eligible for the IL Subsidy, a person shall:
 - a. Be at least 17 years of age, in the custody of the Department, and employed or a full-time student.
 - b. With the assistance of the responsible agency staff, complete the Independent Living Subsidy Agreement or other approved forms designated by the Department.
 2. Conditions for approval and continuation in the Independent Living Subsidy Program include:
 - a. Active participation in activities outlined in the individual case plan;
 - b. Adherence to the terms of the IL Subsidy Agreement, including:
 - i. Communication with the Child Safety Worker;
 - ii. Maintenance of a Department-approved living arrangement, including approval of a roommate, except those assigned by school or work; and
 - iii. Participation in scheduled meetings to review progress and update the individual case plan and IL Subsidy Agreement.
 3. Eligible youth 18, 19, and 20 years of age who are temporarily residing out of state for the purpose of education or vocational training, and who maintain Arizona residency, may receive the Independent Living Subsidy under the same conditions as above.
- C.** Transitional Independent Living Program. Under A.R.S. § 8-521.01, in order to be eligible for the Transitional Independent Living Program, a person must be less than 21 years of age and have been in out-of-home care and in the custody of the Department, a licensed residential group care facility, or a tribal child welfare agency while 16, 17, or 18 years of age. Persons who were in another state's child welfare agency under the same conditions are also eligible.

R21-5-205. Services for Foster Youth 18 through 20 Years of Age in Out-of-home Care

- A.** The Department may provide out-of-home care services and supervision to a foster youth less than 21 years of age, who reached the age of 18 years while in the custody of the Department and in out-of-home care, when the foster youth:
1. Requests out-of-home care;
 2. Has residency in the state of Arizona;
 3. Participates in developing an individual case plan agreement for out-of-home care; and
 4. Demonstrates acceptance of personal responsibility for his or her part of the agreement through active participation in the individual case plan.
- B.** The foster youth, Child Safety Worker, and involved service team members shall develop the individual case plan for out-of-home care:
1. Within the 90-day period prior to the foster youth's 18th birthday for foster youth continuing in out-of-home care past 18 years of age;
 2. Within ten work days for foster youth who enter out-of-home care during the 90-day period prior to the foster youth's 18th birthday; and



- 3. For eligible youth re-entering foster care at 18 years of age or older, within seven work days of the eligible youth's return to Department care and supervision.
- C. The individual case plan shall outline the services and supports to be provided under R21-5-202(B) and include at least one of the following activities:
 - 1. Completion of secondary education or a program leading to an equivalent credential;
 - 2. Enrollment in an institution that provides post-secondary education or vocational education;
 - 3. Participation in a program or activity designed to promote or remove barriers to employment; or
 - 4. Employment of at least 80 hours per month.
- D. Foster youth participating in out-of-home care shall demonstrate acceptance of personal responsibility by actively participating in an individual case plan, unless prevented by a documented behavioral health or medical condition, or other personal crisis or life event, such as pregnancy, birth, necessary maternity leave as determined by a medical professional, adoption, or guardianship of a child.
- E. The Child Safety Worker shall support the foster youth to address any documented condition, crisis, or life event listed in subsection (D), by:
 - 1. Facilitating a youth led discussion that includes a review of the supports and services available as intervention strategies, to assist in resolving the condition, crisis, or concern;
 - 2. Documenting the foster youth's preferred intervention strategy for addressing the condition, crisis, or concern; and
 - 3. Expediently providing or otherwise arranging the preferred intervention strategy.

R21-5-206. Transitional Independent Living Program

- A. The Transitional Independent Living Program provides services to eligible youth, under A.R.S. § 8-521.01 that complements their own efforts toward becoming self-sufficient. The Department may provide the following assistance, depending on individual service plan goals:
 - 1. Financial.
 - 2. Housing.
 - 3. Counseling.
 - 4. Employment.
 - 5. Education, and
 - 6. Other appropriate support and services.
- B. The eligible youth requesting services through the Transitional Independent Living Program shall provide the following information to the responsible agency staff:
 - 1. Identifying information including:
 - a. Name (and any aliases); and
 - b. Date of birth;
 - 2. Information regarding the eligible youth's former foster care status such as the state or tribal child welfare system where the youth was in care, and approximate dates of care, if known; and
 - 3. Any available contact information for the youth, including:
 - i. Phone number.
 - ii. Friend or family phone number.
 - iii. Email address, and
 - iv. Any other communication method identified by the youth.
- C. An eligible youth and responsible agency staff shall develop an individual service plan for the eligible youth to receive these services.
- D. The individual service plan shall address the level of need based on the items noted in subsection (A).

R21-5-207. Re-entry Into Out-of-home Care

- A. The Department shall facilitate re-entry into out-of-home care for eligible youth participating in the Transitional Independent Living Program.
- B. On request for re-entry by the eligible youth, the Department shall confirm the eligible youth's request to receive out-of-home care, supervision, and other services with the youth and within ten work days:
 - 1. Facilitate a meeting with the eligible youth to review the requirements under R21-5-205;
 - 2. Assist the eligible youth to develop an individual case plan that includes an effective date for reopening the Department case;
 - 3. Identify the name and contact information of the Child Safety Worker or responsible agency staff assigned to the case;
 - 4. Identify the out-of-home care type selected such as, foster home, residential group care facility, Independent Living Program, or other arrangement;
 - 5. Notify the identified Child Safety Worker or responsible agency staff assigned to the case; and
 - 6. Complete all necessary authorizations for out-of-home care and other services to reasonably ensure a smooth transition from the TIL Services to the IL Services.
- C. If the eligible youth reports he or she is in crisis and unsafe, the Department shall immediately assess the youth's safety and assist the youth to secure a safe living arrangement and to manage the crisis.
- D. An eligible youth may request to postpone re-entry, decline re-entry at any time, or re-initiate the request any time prior to the eligible youth's 21st birthday. The responsibilities of the Department to process the request for re-entry shall begin



upon the Department's receipt of the eligible youth's request for re-entry under subsection (B).

- E. Supports and services shall continue for youth who re-enter out-of-home care, as outlined in R21-5-205.
- F. If the Department denies re-entry, the Department shall provide the youth with written notification of the reason for this decision and the youth's grievance and appeal rights within 15 work days of the request for re-entry.

R21-5-208. Termination of Services

- A. The Department may terminate IL Services, including out-of-home care for foster youth 18 through 20 years of age, and TIL services if the eligible youth:
 1. Reaches the age of 21 years;
 2. Reaches the age of 18 years and does not desire continued services;
 3. Makes a voluntary decision to terminate services; or
 4. Demonstrates substantial non-compliance or otherwise refuses to meet the requirements of the individual case plan or individual service plan after the responsible agency staff or designee has made active efforts to engage the eligible youth in identifying and resolving issues, including assessing the effectiveness of current services, and identifying and providing additional or different support services.
- B. The Department shall deny IL Services, including out-of-home care for foster youth age 18 through 20 years, and TIL services if the Department determines the person is:
 1. Not eligible;
 2. Unwilling to create an individual case or service plan; or
 3. Not participating in the individual case or service plan.
- C. The Child Safety Worker or responsible agency staff shall notify the person in writing of the Department's decision to terminate or deny services within ten work days of the person's application for services.
- D. The notice shall include information on the person's right to grieve any decision to terminate or deny services.
- E. Within ten work days of the notice to terminate or deny services, the Child Safety Worker or responsible agency staff shall contact the person to:
 1. Assist the person through the grievance process including the completion and submittal of any required Department forms; or
 2. Identify and engage a personal advocate to assist the person through the grievance process, including the completion and submittal of any required Department forms.
- F. When termination of services to a foster youth is planned due to one of the reasons outlined in (A)(1-3) of this Section, the Child Safety Worker or responsible agency staff shall schedule a discharge staffing with the foster youth within ten work days of the foster youth's 21st birthday or the Department's receipt of the foster youth's notice to discontinue services to provide any necessary documents not previously provided, such as a birth certificate, social security card, state identification card, credit report, and a copy of the foster youth's health and education records.
- G. The Department shall not terminate services for substantial non-compliance under subsection (A)(4) until the Child Safety Worker or responsible agency staff satisfies all responsibilities including:
 1. Staffing of the individual case or service plan;
 2. Adhering to the grievance process described in R21-5-209; and
 3. Developing and implementing a discharge plan that provides information on available community resources, and connects the person to those resources.
- H. Services shall remain in effect until the reasons for termination are resolved or the grievance or appeal process is completed.
- I. For Independent Living Subsidy only, if the Department determines that continuation of the Independent Living Subsidy would place the foster youth at risk of immediate harm, the Child Safety Worker or responsible agency staff shall:
 1. Document this fact in the case file progress notes, and
 2. Arrange for a safe living arrangement and sufficient support services to reasonably ensure the foster youth's safety in the interim.

R21-5-209. Grievance Process

- A. A person eligible for services under R21-5-204 who disagrees with a Department adverse action decision to reduce, terminate, or deny services for that person may:
 1. File a grievance under this Section;
 2. Choose not to file a grievance and appeal the adverse action under A.A.C. Title 21, Chapter 1, Article 3 by filing a notice of appeal within 20 days after receipt of the adverse action decision reducing, terminating, or denying services; or
 3. File a grievance, and if the person is dissatisfied with the results of the grievance process, appeal under A.A.C. Title 21, Chapter 1, Article 3 by filing a notice of appeal within 20 days after receipt of the grievance response letter.
- B. In the event that a person disagrees with a Department decision to reduce, terminate, or deny services, the Child Safety Worker or responsible agency staff shall:
 1. Inform the person of the formal grievance process;
 2. Provide the person with the Department's grievance form and directions for submittal to the designated Department staff, such as the Department's Ombudsman's Office; and
 3. Offer to assist the person in completing and submitting the form, or referring the person to the appropriate Department staff, such as the Department's Ombudsman, for assistance in completing and submitting the form.



- C. Upon receipt of the grievance form, the Department shall:
 - 1. Schedule a face-to-face meeting with the person who filed the grievance within seven work days from the date the grievance was received by the Department, or schedule a teleconference if a face-to-face meeting is not possible;
 - 2. Evaluate the grievance to determine if the grievance can be resolved by the Department to the satisfaction of the person;
 - 3. Mail a grievance response letter to the person within three work days of the meeting; and
 - 4. Include an appeal form with the grievance response letter so the person may appeal the adverse action.
- D. If the person agrees with the Department's decision to terminate services, the Child Safety Worker or responsible agency staff shall proceed with case closure including completing a discharge plan with the person that includes information on aftercare services and other community based support.
- E. The Department shall retain documentation of all grievances in the case file according to the Department's retention schedule.

ARTICLE 3. DEPARTMENT ADOPTION SERVICES

R21-5-301. Definitions

In addition to the definitions in A.R.S. § 8-101, the following definitions apply in this Article, Article 4 of this Chapter, and 21 A.A.C. 9:

- 1. “Adoptable child” means a child who is legally available for adoption but who has not been placed for adoption.
- 2. “Adoptee” means a child who is the subject of a legal petition for adoption.
- 3. “Adoption agency” means an individual or entity, including a corporation, company, partnership, firm, association, or society, other than the Department, licensed by the Department to place a child for adoption.
- 4. “Adoption entity” or “entity” means the Department and includes an adoption agency, but does not include a private attorney who is licensed to practice law in the state of Arizona and who is only assisting in a direct placement adoption to the extent allowed by A.R.S. § 8-130(C).
- 5. “Adoption placement” or “placement” means the act of placing an adoptable child in the home of an adoptive parent who has filed, or is contemplating filing, a petition to adopt the child.
- 6. “Adoption Registry” means the electronic database described in A.R.S. § 8-105.
- 7. “Adoption services” means activities conducted in furtherance of an adoption and includes the activities listed in A.A.C. R21-5-303 and R21-9-201(B).
- 8. “Adoptive parent” means an individual who has successfully completed the application process and has been certified by the court to adopt. An adoptive parent includes an individual who does not have a child placed in their home.
- 9. “Agency placement” means the child is placed in an adoptive home chosen by the adoption agency.
- 10. “AHCCCS” means the Arizona Health Care Cost Containment System, which is the State's program for medical assistance available under Title XIX of the Social Security Act and state public insurance statutes under A.R.S. Title 36, Chapter 29.
- 11. “Applicant” means an individual who has applied to become an adoptive parent.
- 12. “Birth parent” means the biological mother or father of a child.
- 13. “Central Registry” means the information maintained by the Department of substantiated reports of child abuse or neglect for the purposes of A.R.S. § 8-804.
- 14. “Certification application” means the form that an applicant submits to an adoption entity or to the court to request a certification investigation to become certified as an adoptive parent.
- 15. “Certification investigation” means the process referred to in A.R.S. § 8-105(C) by which an adoption entity determines if an applicant is a fit and proper person to adopt.
- 16. “Certification order” means a judicial determination that an applicant is acceptable to adopt children.
- 17. “Certification report” or “adoptive home study” means the written report described in A.R.S. § 8-105, in which an adoption entity summarizes the results of a certification investigation and makes a recommendation for or against certification of an applicant.
- 18. “Child with special needs” means a child who has one of the special needs listed in A.R.S. § 8-141.
- 19. “Department” or “DCS” means the Arizona Department of Child Safety.
- 20. “Developmentally appropriate” means an action that takes into account:
 - a. A child’s age and family background;
 - b. The predictable changes that occur in a child’s physical, emotional, social, cultural, and cognitive development; and
 - c. A child’s pattern and history of growth, personality, and learning style.
- 21. “Direct placement” means the child is placed in an adoptive home by the birth parent or legal parent.
- 22. “Final report to the court” means a written report that includes a social study under A.R.S. § 8-112, in which an adoption entity advises the court of the entity’s assessment and recommendations about the finalization of a particular adoption.
- 23. “Foster parent” means the same as in A.R.S. § 8-501.
- 24. “ICPC” means the Interstate Compact on the Placement of Children described in A.R.S. § 8-548.



25. “ICWA” means the Indian Child Welfare Act described in 25 U.S.C. 1901 et seq.
26. “Legally available” means a child whose birth or legal parents are deceased, have voluntarily relinquished their parental rights, or whose parental rights have been terminated by the court.
27. “License” means a permission granted by the Department to an adoption agency authorizing the adoption agency to perform adoption services in A.A.C. R21-9-201(B).
28. “Open adoption” means an adoption in which the adoptive parent and the birth or legal parent agree to share varying degrees of each other's personal information for future contact.
29. “Out-of-state agency” means any person or entity that is authorized or licensed by a state other than Arizona, or a foreign country, to perform adoption services.
30. “Placed child” means an adoptable child who has been placed with an adoptive parent, and the adoptive parent has not yet filed a petition to adopt the child.
31. “Placement supervision period” means the time period from the date of adoption placement until the court enters a final order of adoption, during which the adoptive parent has the rights under A.R.S. § 8-113.
32. “Reasonable fee” means
 - a. A fee commensurate with:
 - i. The actual cost of providing a specific adoption service or item to a specific individual, or
 - ii. The average cost of a service or item if the adoption entity routinely uses an averaging method to determine the cost of a particular service or item.
 - b. A reasonable fee may include reasonable compensation for officers and employees and a reasonable profit margin above actual or averaged costs.
33. “Service plan” means a written document of developmentally appropriate pre-placement and post-placement services necessary to facilitate a child's transition to an adoptive home.
34. “Social study” means the written report described in A.R.S. § 8-112, after a petition for adoption has been filed, where the adoption entity summarizes the results of its investigation, and makes a definite recommendation for or against the proposed adoption and the reasons for that recommendation.

R21-5-302. Adoption Registry: Information Maintained; Confidentiality

- A.** The Department shall maintain and keep current the Adoption Registry with the information required under A.R.S. § 8-105. The Adoption Registry shall include the following current information for each child or adoptive parent listed on the Adoption Registry:
1. The child's availability for adoptive placement.
 2. The adoptive parent's certification status.
 3. The adoptive parent's availability for adoptive placement, and
 4. The type of child the adoptive parent is open to considering for adoption including:
 - a. Age;
 - b. Sex; or
 - c. Special needs.
- B.** Upon request, the Department shall provide personally identifiable Adoption Registry information to:
1. The court;
 2. An adoption agency, including a private attorney;
 3. Under a court order, a National or Regional Adoption registry and exchange; and
 4. An out-of-state agency.
- C.** Before providing information, the Department shall obtain, from the person requesting the information, the following:
1. The name and affiliation of the person requesting the information;
 2. The reason for the request; and
 3. If the requesting party is other than a court representative, a signed statement acknowledging that the information is confidential and promising not to release the information to anyone except as allowed by A.R.S. §§ 8-120, 8-121, and 8-105.

R21-5-303. Department Adoption Services

- A.** The Department provides the following adoption services for families and children in accordance with the limitations and provisions of A.R.S. Title 8, Chapter 1, Article 1:
1. For families:
 - a. Recruiting adoptive parents;
 - b. Informing persons interested in adopting a child about the adoption process;
 - c. Conducting certification investigations of applicants under A.R.S. § 8-105;
 - d. Preparing certification reports under A.R.S. § 8-105; and
 - e. Submitting the names and profiles of adoptive parents for listing in the Adoption Registry.
 2. For children:
 - a. Accepting adoption consents from birth parents;
 - b. Preparing non-identifying, pre-placement information on adoptive children for adoptive parents, as required in A.R.S. § 8-129;



- c. Submitting the name and profile of an adoptive child for listing in the Adoption Registry;
- d. Preparing a child for adoptive placement;
- e. Matching an adoptable child with an adoptive parent;
- f. Placing an adoptable child in the home of an adoptive parent;
- g. Investigating and reporting to the court on the acceptability of an adoptive parent under A.R.S. § 8-105(H);
- h. Monitoring an adoption placement during the placement supervision period;
- i. Providing services to a child placed for adoption and the adoptive family to assist with adjustment to the adoption placement;
- j. Conducting a social study under A.R.S. § 8-112 and preparing a final report to the court determining suitability of placement; and
- k. Assisting an attorney by providing legal documents to enable an adoptive parent to complete the adoption process.

B. When performing adoption services, the Department shall adhere to the standards established for an adoption agency in 21 A.A.C. 9.

R21-5-304. Department Procedures for Processing Certification Applications

- A.** Upon review of a certification application, the Department shall notify the applicant in writing that the application is either complete or incomplete. An application is complete when it contains the information and supporting documentation described in R21-5-404. If the application is incomplete, the notice shall specify what information is missing.
- B.** An applicant with an incomplete application has 30 days from the date of the notice to provide the missing information. If the applicant fails to do so, the Department may close the file. An applicant whose file has been closed and who later wishes to apply for certification may reapply.
- C.** Upon review of a complete application, the Department shall decide whether to accept the application, according to the priority schedule listed in R21-5-305, and the availability of the Department’s resources. If the Department cannot accept the application, the Department shall return the original application and all supporting documentation to the applicant. The applicant may reapply.
- D.** After the Department accepts the completed application, the Department shall provide the applicant written notice of the acceptance. The Department shall complete the certification investigation as specified in R21-5-405 within 90 days of the date of the notice. The Department shall prepare a certification report under R21-5-406.
- E.** The Department shall process a renewal application under this Section and R21-5-407.

R21-5-305. Department Priorities for Receipt of Services

The Department shall accept and process certification applications and render adoption services according to the following priority schedule:

- 1. An applicant for whom the court has ordered the Department to do a certification investigation and report;
- 2. An applicant seeking to adopt a particular adoptable child with special needs;
- 3. An applicant wishing to adopt a child with special needs;
- 4. An applicant considering adopting a child with special needs; and
- 5. All other applicants.

R21-5-306. Department Recruitment Efforts

The Department shall actively recruit persons to adopt children with special needs by:

- 1. Publicizing the need for such adoptive parents;
- 2. Registering adoptable children, as appropriate, with the Adoption Registry or other local, state, regional and national adoption resources;
- 3. Advising prospective adoptive parents of:
 - a. The availability of children with special needs;
 - b. The procedures involved in adopting such children, and
 - c. The support services and subsidies that may be available to persons adopting such children; and
- 4. Other measures similar to those described in this Section.

R21-5-307. Fees: Waiver

- A.** The Department shall charge the following fees for performing a:
 - 1. Certification investigation and preparing a certification report, \$1,200; and
 - 2. Records search for a confidential intermediary, \$50.00.
- B.** The Department shall waive the certification fee in subsection (A)(1) if the applicant adopts a child in the custody of the Department.

R21-5-308. Termination of Adoption Services

- A.** The Department may terminate services to an applicant or adoptive parent when:
 - 1. The adoption is finalized;
 - 2. The applicant or adoptive parent requests closure before receiving a child for placement;
 - 3. The applicant or adoptive parent ceases to be a resident of Arizona before receiving a child for placement;
 - 4. The court declines to certify the applicant or adoptive parent;



5. The applicant or adoptive parent refuses to comply with the requirements in A.R.S. Title 8, Chapter 1, Article 1, or this Chapter, Articles 3 and 4;
 6. The applicant fails to submit a completed certification application within 90 days of the date on which the Department sent the person an application form;
 7. The adoptive parent is no longer willing to be an adoptive parent; or
 8. The adoptive parent is no longer certified to adopt.
- B.** The Department may terminate adoption services to an adoptive child when:
1. The court issues a final adoption order; or
 2. The court determines that adoption is no longer the most appropriate case plan for the child, and the Department provides alternate services consistent with the child's new case plan.

ARTICLE 4. ADOPTION ENTITY SERVICES

R21-5-401. Definitions

The definitions in R21-5-301 apply in this Article.

R21-5-402. Recruitment

- A.** When recruiting applicants, an adoption entity shall comply with the requirements of this Section.
- B.** The adoption entity shall conduct recruitment efforts pursuant to a written plan, which shall describe:
1. Specific recruitment goals, including:
 - a. The number and composition of adoptive parents the entity will serve; and
 - b. The children the entity will accept for placement and any limitations such as:
 - i. Age;
 - ii. Medical special needs;
 - iii. Developmental special needs;
 - iv. Mental health; or behavioral health special needs.
 2. Methods of recruitment;
 3. The number and professional qualifications of staff designated to handle recruitment; and
 4. The means by which the adoption entity shall fund the agency's recruitment efforts.
- C.** The adoption entity's recruitment efforts shall be consistent with the personal characteristics of the children the entity has available for adoption and reasonably expects will become available for adoption through the entity.
- D.** An adoption entity shall not:
1. Promise to place more children than the adoption entity's prior history shows it can reasonably expect to place;
 2. Promise to place a child in less time than the average waiting period demonstrated by the adoption entity's past practice;
 3. Promise adoption subsidy prior to the formal approval and receipt of an adoption assistance agreement that meets the requirements of A.R.S. Title 8 Chapter 1 Article 2; or
 4. Make any other statements or promises the entity knows or reasonably should know are false, misleading, or inaccurate.
- E.** The Department may take an adverse licensing action against an adoption agency that does not comply with this Section.

R21-5-403. Orientation: Persons Interested in Adoption

- A.** Prior to accepting a certification application from a person considering the adoption of a child, or an application for placement from a person who intends to seek a placement through the adoption entity, an adoption entity shall provide the person with an adoption orientation, which shall explain the following:
1. The adoption process, including all legally mandated procedures, and estimated time-frames for completion of such procedures;
 2. The adoption entity's policies and procedures that directly affect services to adoptive parents;
 3. The adoption entity's fee structure and written fee agreement;
 4. The types and number of children the agency typically has had and reasonably expects to have available for adoption placement and the average length of time between certification and placement;
 5. The Department's responsibility for licensing and monitoring agencies, and the public's right to register a complaint about an agency as prescribed in 21 A.A.C. 9, Article 2;
 6. The function of the Adoption Registry and the adoptive parent's right to decide whether to be included in the Adoption Registry; and
 7. Confidentiality requirements, open adoptions, and the confidential intermediary program described in A.R.S. § 8-134.
- B.** A person who is already knowledgeable about all or part of the matters listed in subsection (A) may waive orientation on those matters, with the approval of the adoption entity. A person may be knowledgeable due to a prior adoption through an Arizona adoption entity, employment in adoption services, or for other similar reasons.
- C.** An adoption entity shall maintain written documentation showing that any person who has applied to the entity for certification or for placement of a child has received the orientation described in subsection (A), required by R21-9-227, or has obtained a waiver described in subsection (B). If some or all of the adoption orientation is waived, the adoption entity shall document the matters waived and the reasons for the waiver.



D. An adoption entity shall not charge a person for anything other than a certification application fee, or enter into an adoption fee agreement with a person, until the person has received the orientation in subsection (A).

R21-5-404. Application for Certification

An applicant who wishes to become certified as an adoptive parent shall apply for certification as provided in A.R.S. § 8-105. An adoption entity shall require an applicant to provide at least the following information:

1. Personally identifying information for each prospective adoptive parent, including:
 - a. Name and date of birth;
 - b. Social Security number;
 - c. Race and ethnicity;
 - d. Physical description;
 - e. Current address and duration of Arizona residency;
 - f. Marital history; and
 - g. The name, address, and phone number of immediate family members, including emancipated adult children;
2. The name, date of birth, and social security number of any person currently residing with the applicant;
3. A listing of the applicant’s insurance policies, including:
 - a. Any insurance that may be available to cover the medical expenses of a birth mother or adoptive child; and
 - b. The name of the insured, the insurance policy number, and the effective dates of coverage;
4. A current financial statement describing the applicant’s assets, income, debts, and financial obligations;
5. A physician’s statement as to the applicant’s current physical and mental health;
6. A medical and psychological history on the applicant and the applicant’s household members. The history may be a declaration by the applicant of past physical and mental illness for the applicant and any household member;
7. The applicant’s employment history;
8. The applicant’s social history;
9. A statement from the applicant as to the type of child the applicant seeks to adopt and whether the applicant desires to adopt or would consider adopting a child with special needs;
10. Information on the following legal proceedings in which the applicant has been a party:
 - a. Dependency proceedings;
 - b. Severance or termination of parental rights proceedings;
 - c. Child support enforcement proceedings;
 - d. Proceedings involving allegations of child abuse or neglect;
 - e. Adoption proceedings, or
 - f. All criminal proceedings;
11. The applicant’s prior history of adoption certification, including prior applications for certification and the dates of any certification denials;
12. Whether the applicant wishes to be listed on the Adoption Registry;
13. A fingerprint card or fingerprints processed through the Court, meeting the requirements of A.R.S. § 41.1758.07 on each applicant and each adult residing in the home more than the age of 18 years; and
14. The names, addresses, and phone numbers of five personal references: two references from family members related to the applicant by blood or marriage, and three other references, who have known the applicant at least two years and who can attest to the applicant’s character and fitness to adopt.

R21-5-405. Certification Investigation

A. Following acceptance of a completed certification application, the adoption entity shall conduct a certification investigation that includes:

1. Personal interviews with the adoptive family. Such interviews shall:
 - a. Occur on at least two separate occasions, at least one of which shall be at the adoptive parent’s residence;
 - b. Comprise no less than four hours of in person contact, and at least one hour shall take place at the adoptive parent’s residence;
 - c. Include at least one separate interview with each member of the adoptive parent’s household who is more than the age of five; and
 - d. Include at least one joint interview with both adoptive parents if they are married;
2. Written statements from and personal contact (either a face-to-face meeting or a telephone call) with at least three of the applicant’s personal references;
3. An inquiry as to whether the applicant wishes to be listed in the Adoption Registry;
4. Verification of the applicant’s financial condition through a review of one or more of the documents listed in subsection (A)(7)(g) below;
5. A request to the Department for a check of the Central Registry to determine if the applicant has a past record of substantiated allegations of child abuse or neglect;
6. An evaluation of the success of the placement of other children adopted by the applicant;
7. A review of any supporting documentation the adoption entity reasonably deems necessary to determine an applicant’s fitness to adopt, including:



- a. A physician's statement regarding the physical health of other adult household members and the applicant's children living in the home;
 - b. A statement from a psychiatrist or psychologist regarding the mental health of the applicant and the applicant's other household members;
 - c. Birth certificates;
 - d. Marriage certificate;
 - e. Dissolution of marriage or divorce papers and orders, including child support documentation;
 - f. Military discharge papers;
 - g. Financial statements, tax returns, pay stubs, and W-2 statements;
 - h. Bankruptcy papers;
 - i. Insurance policy information; and
 - j. Documentation showing Arizona residency.
- B.** A person who meets the qualifications listed in 21 A.A.C. 9, Article 2, shall perform the certification investigation and shall document all personal contacts made and all information reviewed and considered during the investigation.

R21-5-406. Certification Report and Recommendation

- A.** Upon completion of the certification investigation, the adoption entity shall prepare a certification report under A.R.S. § 8-105.
- B.** In determining whether to recommend certification of an applicant, the adoption entity shall consider all factors bearing on fitness to adopt, including, but not limited to:
1. The factors listed in A.R.S. § 8-105;
 2. The length and stability of the applicant's marital relationship, if applicable;
 3. The applicant's age and health;
 4. Past, significant disturbances, or events in the applicant's immediate family, such as:
 - a. Involuntary job separation;
 - b. Divorce, or death of spouse, child, or parent, and
 - c. History of child abuse or neglect;
 5. The applicant's ability to financially provide for an adopted child; and
 6. The applicant's history of providing financial support to the applicant's other children, including compliance with court-ordered child support obligations.
- C.** The certification report shall specifically note any instances where an applicant has:
1. Been charged with, been convicted of, pled no contest to, or is awaiting trial, on charges of an offense listed in A.R.S. § 41-1758.07; or
 2. Been a party to a dependency, guardianship, or termination of parental rights action.
- D.** If the report recommends denial of certification, the adoption entity shall send the applicant written notice of the unfavorable recommendation, the reason for the denial, and an explanation of the applicant's right under A.R.S. § 8-105, to petition the court for review. The adoption entity shall mail the notice to the applicant at least five work days prior to filing the certification report with the Court.
- E.** The adoption entity may notify the adoptive parent of the Court's certification decision if the Court fails to do so.

R21-5-407. Renewal of Certification

- A.** A certified adoptive parent who has not filed a petition for adoption within one year of the original certification order, may apply for an extension of certification, as provided in A.R.S. § 8-105.
- B.** If the Court directs an adoption entity to investigate a certified adoptive parent who has requested a renewal of certification, the entity shall obtain from the adoptive parent seeking renewal:
1. A copy of the request for renewal of certification;
 2. An updated profile of any changes in the certified adoptive parent's social, family, medical, and financial circumstances;
 3. New fingerprint clearance per Court requirements, following original certification;
 4. A current physical health statement for all members of the adoptive parent's household at least every third year following original certification; and
 5. Other information as the Court may request.
- C.** When investigating a request for a renewal of certification, the adoption entity shall, at a minimum, complete the following:
1. Conduct an in person interview at the applicant's home with the applicant and the applicant's other household members more than the age of five years.
 2. Investigate any change in circumstances described in the request for renewal as necessary to determine continuing fitness to adopt, and
 3. Document all actions.
- D.** Upon completion of the renewal investigation, the adoption entity shall prepare and file with the Court a certification investigation that shall contain a recommendation for or against renewal of certification.
- E.** If the adoption entity recommends that certification not be renewed, the entity shall send the adoptive parent the notice in R21-5-406(D).



R21-5-408. Communication with Adoptive Parents Awaiting Placement

Upon request, an adoption entity shall inform an adoptive parent awaiting placement of a child of the following:

1. The status of the adoptive parent’s case;
2. The number of children the adoption entity currently has available for adoption;
3. The number of times the adoptive parent has been considered for the placement of a child;
4. The number of approved adoptive parents awaiting placement of a child through the adoption entity; and
5. The number of placements the adoption entity made in the prior year, the number of placements the adoption entity has made to date in the current year, and the number of placements the adoption entity anticipates making during the remainder of the current year.

R21-5-409. Prohibitions Regarding Birth Parents

An adoption entity shall not:

1. Promise a birth parent that the birth parent shall have future contact with the child or the adoptive parent but may explain the concept of open adoption;
2. Promise a birth parent that the child will be placed with a specific adoptive parent or type of adoptive parent, except in a direct placement adoption. The adoption entity may advise the parent that it will use the entity's best efforts to honor any placement preferences the birth parent may have, to the extent that such preferences are consistent with the best interests of the child;
3. Promise a birth parent any financial or other consideration prohibited by law; or
4. Do or say anything to coerce or pressure a birth parent to sign a consent to adopt.

R21-5-410. Information about Birth Parents

A. Before accepting a child for placement, the adoption entity shall make a good faith effort to obtain the following information described in this Section from the child’s birth parent, or person having custody of the child:

1. Information about each birth parent including:
 - a. Name and any aliases used;
 - b. Address, phone number, and residential history;
 - c. Date and place of birth;
 - d. Social security number;
 - e. Race, citizenship, and any Native American tribal affiliation or membership;
 - f. Physical description;
 - g. Name of current employer and employment history;
 - h. Educational history;
 - i. Marital history and status;
 - j. Record of other births and children born to the birth parent;
 - k. Hobbies;
 - l. Future plans;
 - m. Record of arrests or convictions;
 - n. Medical, psychological, and substance use history;
 - o. For the birth mother, history of prenatal care, gestational substance or drug abuse, pregnancy, and delivery;
 - p. Immediate family relationships; and
 - q. Significant family events.
2. An explanation of the birth parent’s decision to place the child for adoption, the factors that influenced the decision, and a record of any counseling the birth parent received concerning the decision.
3. A record of the birth parent’s contact with the child.
4. A statement of the birth parent’s feelings about future contact with the child.
5. A list of the birth parent’s preferences regarding an adoptive home for the child.
6. Medical or psychological history on the birth parent’s own parents, siblings, grandparents, aunts, uncles, and first cousins.
7. Information on the child being surrendered for adoption, as appropriate to the age of the child and the child's:
 - a. Developmental history,
 - b. Medical and psychological history,
 - c. Family background,
 - d. Educational history, and
 - e. Membership in or affiliation with any Native American tribe.
8. A listing of the birth parent’s insurance policies, including:
 - a. Any insurance that may be available to cover the medical expenses of the birth mother or adoptive child; and
 - b. The name of the insured, the insurance policy number, and the effective dates of coverage.

B. The adoption entity shall document all statements and information in a permanent record.

R21-5-411. Pre-consent Conference with Birth Parents

A. The adoption entity shall have a pre-consent conference with each birth parent who must provide consent to adoption under A.R.S. § 8-106, to explain in a language and form that each birth parent can understand the following:



1. The legal and practical consequences of executing a consent, including:
 - a. Applicable ICWA provisions; and
 - b. The fact that the consent, and all other affidavits executed in connection with an adoption, are executed under penalty of perjury;
 2. The irrevocability and inalterability of a consent;
 3. The legal prohibition against paying the birth parent to execute a consent;
 4. The fact that the birth parent has no obligation to sign the consent; and
 5. The provisions of A.R.S. § 8-106, regarding an affidavit of any potential father.
- B.** The pre-consent conference shall occur:
1. No earlier than 12 hours after the birth of a child if the conference was not held before the birth under subsection (B)(2);
 2. No earlier than 60 days before the anticipated due date, if the conference is held before the child's birth;
 3. At least 24 hours before presenting a birth parent with the consent form for signature; and
 4. At a time that takes into account the known medical and emotional condition of each available birth parent.
- C.** The person conducting the pre-consent conference shall provide the birth parent with a sample consent form and shall convey the information described in subsection (A) in a language and form that the birth parent can understand.
- D.** The person conducting the pre-consent conference shall document that the information was given and understood and shall obtain the birth parent's signature on the documentation. If the conference is by telephone under subsection (E), the person may obtain the signature through the mail at a later date. If the conference is not held, the person shall document the reason under subsection (E).
- E.** The pre-consent conference may be by telephone and is not required if the birth parent cannot be located or refuses to participate in the conference. The adoption entity shall document the reason why the conference did not occur.
- F.** If required to obtain a consent from a birth father under A.R.S. § 8-106, the adoption entity shall, prior to obtaining the birth father's signature, advise the birth father of the matters listed in subsection (A) in a form and language the birth father can understand. The adoption entity shall include the advice listed in subsection (A) on the consent form.

R21-5-412. Consent to Adopt: Unknown Birth Parent

- A.** A person who obtains a birth parent's signature on a consent shall not do so until the person reasonably determines:
1. That the requirements of R21-5-411 have been met;
 2. That the birth parent is not acting under duress;
 3. That the birth parent is physically and mentally capable of exercising informed consent; and
 4. That the birth parent has revealed all information known about the identity and location of the other birth parent.
- B.** No one shall advise a birth parent to falsely state that he or she does not know the identity or location of the other birth parent.
- C.** When a birth parent professes not to know the identity or location of the other birth parent, the person taking the consent shall explain the risks and consequences of this response, including the following:
1. Potential invalidation of the adoption;
 2. Potential detriment to the child's social and physical well-being, due to lack of information concerning the unidentified birth parent's social and medical history; and
 3. Potential penalties for perjury.
- D.** When a birth parent knows, but refuses to disclose, the identity or location of the other birth parent, the adoption entity shall advise the birth parent as provided in subsection (C) and shall also explain that the Court may refuse to finalize the adoption.
- E.** The adoption entity shall document all action taken in compliance with this Section.
- F.** The adoption entity shall give the birth parent a copy of the consent and retain a copy in the permanent adoption file.
- G.** The adoption entity shall request a search of the confidential putative fathers registry of information that the Arizona Department of Health Services maintains under A.R.S. § 8-106.01 when:
1. A birth father's identity is unknown or undisclosed, and
 2. The adoption entity believes that a search of the putative fathers registry may prevent disruption of a placement or an adoption.

R21-5-413. Adoptable Child: Assessment and Service Plan

- A.** Prior to selecting an adoptive placement for an adoptable child, the adoption entity shall:
1. Assess the child's medical, psychological, social, and developmental needs;
 2. Design an adoptive family profile consistent with the child's needs and best interests;
 3. Develop a written service plan; and
 4. Assess whether the child is a potential candidate for an adoption subsidy.
- B.** The service plan shall, at a minimum, include:
1. Placing the child on the Adoption Registry if there is no adoptive parent readily available to adopt the child;
 2. Giving the child a developmentally appropriate explanation of the adoption process.
- C.** The adoption entity shall provide the child with services in accordance with the child's service plan.

R21-5-414. Placement Determination

- A.** An adoption entity shall have and follow a written policy for making placement recommendations and decisions in both direct placement and adoption placement adoptions.



- B.** Except as otherwise provided in subsection (C), in an agency placement adoption a team shall make the placement decision. The team shall at a minimum, include:
 - 1. The case manager or person who assessed the adoptable child, and
 - 2. The case manager or person who is knowledgeable about the potential adoptive parents for the adoptable child.
- C.** In international adoptions, where the case manager or person who assessed the child is out of the country and unavailable, the adoption team shall include the person who is most familiar with the adoptable child's needs.
- D.** In an agency placement adoption, an adoption entity shall place an adoptable child in the adoptive setting that best meets the child's safety, social, emotional, physical and mental health needs. In determining who can best meet the needs, the adoption entity shall consider ICWA placement preferences if applicable and the following relevant factors in no order of preference:
 - 1. The marital status, length and stability of the marital relationship of the adoptive parent;
 - 2. The family's ability to meet the child's emotional, physical, mental, and social needs;
 - 3. The family's ability to financially provide for the child;
 - 4. The wishes of a child who is 12 years of age or more;
 - 5. Family relationships between the child and the adoptive parent's family members;
 - 6. The placement of the child's siblings;
 - 7. The availability of relatives, the adoptable child's former foster parents, or other significant persons to provide support to the adoptive parent and child;
 - 8. The wishes of the child's birth parent; and
 - 9. All information in the case files of the child and the adoptive parent.
- E.** The adoption entity shall document the placement decision.
 - 1. For adoptions conducted pursuant to the ICPC, the documentation shall comply with the requirements of the ICPC under A.R.S. § 8-548 et seq.
 - 2. For all other adoptions, the documentation shall include the following:
 - a. The adoptive child's critical needs and characteristics that weigh most heavily in the placement determination.
 - b. The names and general characteristics of those adoptive parents who most closely match the child's needs and who are seriously considered for placement, and
 - c. The reasons why a particular adoptive parent chosen for placement best meets the child's needs.
- F.** For adoptions not covered by the ICPC, the adoption entity may document the placement decision in a file or placement log that is separate from the clients' case files.

R21-5-415. Provision of Information on a Placed Child

After selecting an adoptive placement for a child, and before placing the child with the chosen adoptive parent, the adoption entity shall provide the adoptive parent with all non-identifying information available on the child, including, without limitation, the following:

- 1. All records concerning the child's medical, psychological, social, legal, family, and educational background;
- 2. All records concerning the birth parents' medical, psychological, social, legal, family, and educational background;
- 3. The medical and social background on the child's other immediate family members, including siblings and birth grandparents;
- 4. The child's plan for adoption services, as described in R21-4-413; and
- 5. Information on adoption subsidy that may be available for the child.

R21-4-416. Transportation

An adoption entity that transports an adoptive child shall:

- 1. Ensure that any person who transports an adoptive child is informed of the child's medical needs and is capable of meeting any medical needs that are reasonably likely to arise during transport;
- 2. Not leave an adoptive child unattended during transportation if the adoptive child:
 - a. Is less than seven years of age;
 - b. Has a developmental disability; and
 - c. Is more than seven years of age if the adoption entity has determined, and documented in the child's record, that the child is physically and emotionally incapable of traveling alone;
- 3. Require all persons who provide transport to carry personal identification and a written statement from the adoption entity describing the person's authority and responsibilities while performing transport duties;
- 4. Require proof of driver's license from any person accepting temporary or permanent responsibility for transporting an adoptive child during the course of placement;
- 5. Document all transportation plans and actual transportation events in the child's record;
- 6. All vehicles used in transporting adoptive children shall be insured;
- 7. Ensure that an adoptive child is properly secured in a child restraint system that meets the requirements listed in R21-9-224(E).

R21-5-417. Placement Services

A. An adoption entity shall make counseling services available to the adoptive parents' family as the entity deems reasonable and necessary to facilitate the child's acceptance into the adoptive parent's family and to preserve stability. The adoption entity may make such services available by advising the adoptive family that such services may be beneficial



and referring the adoptive parent and his or her family to community resources and providers.

- B. The adoption entity shall make information on adoption related educational and supportive resources available to adoptive parents.
- C. The adoptive parent must sign a document stating if he or she is declining any form of adoption counseling.

R21-5-418. Post-placement Supervision: Non-foster Parent Placement

- A. When a child is placed for adoption with a person who is not the child's foster parent, a case manager from the adoption entity shall visit the home within 30 calendar days of the date of adoptive placement to:
 - 1. Ensure that the adoptive parent received all available non-identifying information from the adoption entity on the child;
 - 2. Address any questions or concerns the adoptive parent or child may have about the adoption process or placement;
 - 3. Ensure that the family has addressed the educational needs of a school-age child; and
 - 4. Ensure that an adoptive parent who works has made appropriate child care arrangements.
- B. Following the initial placement visit in subsection (A), a case manager from the adoption entity shall:
 - 1. Visit the adoptive family at least once every three months until the adoption is finalized:
 - a. Except, when the adoptive child is a child with special needs, the visits shall occur at least once a month; and
 - b. During the first six months following the initial placement visit, at least alternating visits shall occur at the adoptive family's home;
 - 2. Interview all members of the adoptive family's household during the placement supervision period;
 - 3. Discuss how the child and the adoptive parent's family are adapting, the current relationship among members of the adoptive parent's family, and the following issues with the adoptive parent if appropriate in light of the child's age and development:
 - a. How the presence of the child has changed familial relationships;
 - b. How the child and the extended family view each other;
 - c. The role each family member has assumed regarding child care and discipline;
 - d. How the adoptive parent is coping with the needs and demands of the placed child;
 - e. How the child challenges or tests the placement and how the family reacts to these episodes, including any feelings of insecurity about the propriety of the family members' response;
 - f. How the family perceives the child's sense of identity and the need to fill in gaps in the child's history; and
 - g. How the child has adjusted to the school environment;
 - 4. If developmentally appropriate, privately interview the child about:
 - a. The child's feelings about the adoption;
 - b. How the child and family are adapting; and
 - c. The child's relationships with the members of the family.
- C. The case manager shall document all contacts and communications made under this Section.

R21-5-419. Post-placement Supervision: Foster Parent Placement

- A. When a foster parent plans to adopt a foster child who is age 5 years or older, a case manager from the adoption entity shall privately interview the child and all members of the adoptive family household who are age 5 years or older about their feelings towards the adoption, before the adoption consent is signed.
- B. When a child is placed for adoption with a person who has been a foster parent to the child, a case manager from the adoption entity shall conduct a home visit at least every two months from the time legal consent for adoption has been signed until the finalization of adoption unless the adoptive child is a child with special needs. If the adoptive child is a child with special needs, the case manager shall visit at least once a month.
- C. During the visits described in subsection (B), the case manager shall:
 - 1. If developmentally appropriate, privately interview the child to discuss a child's feelings about the adoption; and
 - 2. Interview all members of the adoptive family household, including children, if developmentally appropriate, to discuss, as described in R21-5-418, how the child and family are adapting, and the current relationship among members of the family.
- D. The case manager shall document all contacts and communications under this Section.

R21-5-420. Protracted Placement

If an adoption is not finalized within two years from the date of consent, and the child is still placed in the adoptive home, the adoption entity handling the adoption shall provide the Department with written documentation explaining the reason why the adoption has not been finalized, no later than 30 calendar days after the two-year period has ended.

R21-5-421. Finalizing the Placement

An adoption entity shall cooperate with the adoptive parent and the attorney, if any, retained by the adoptive parent, to finalize the adoption.

- 1. The entity shall provide all information and documents needed to finalize the adoption and shall file a final written report to the court at least 14 calendar days before the final adoption hearing, or at such other time as the Court may require. The report shall include the information listed in this subsection, unless the entity has already provided this information in an earlier report, and the information has not changed since the earlier report.
 - a. The name and age of each adoptive parent and the relationship, if any, of each adoptive parent to the child to be adopted;



- b. The name, age, and birthplace of the child to be adopted, and whether any or all of this information is unknown to the adoptive parent;
 - c. The entity or other source from which the adoptive parent received the child to be adopted;
 - d. The circumstances surrounding the surrender of the child to the entity;
 - e. The results of the entity’s evaluation of the child and of the adoptive parent, including:
 - i. A description of the care the child is receiving;
 - ii. The adjustment of the child and parent; and
 - iii. A summary statement of the entity’s recommendation to the court regarding finalization;
 - f. A full description of any property belonging to the child to be adopted;
2. For children 12 years of age and older, the adoption entity shall solicit and consider the child’s wishes concerning adoption.
 3. The adoption entity shall notify the AHCCCS Administration of any potential third party payer, as prescribed in A.R.S. § 36-2946, if the entity has not already done so.

R21-5-422. Placement Disruption

- A. When a placement fails, the adoption entity shall provide services, including counseling to the adoptive parent and his or her family and child, to help them cope with the loss and separation.
- B. An adoption entity shall have and follow written procedures for an adoptive placement disruption. The procedures shall include:
 1. Provision of counseling services to the adoptive parent, his or her family, and the child as needed; and
 2. Provision for placement of the child in another adoptive home or other developmentally appropriate living arrangement.
- C. The adoptive entity shall document the reasons for the disruption and shall take such information into account when making future placements for the adoptive parent and the child.

R21-5-423. Confidentiality

Any person or entity who participates in an adoption or provides adoption services shall comply with the confidentiality requirements under A.R.S. §§ 8-120, 8-121, and 36-2903.01.

ARTICLE 5. ADOPTION SUBSIDY

R21-5-501. Definitions

In addition to the definitions in A.R.S. §§ 8-141 and 8-501, the following definitions apply in this Article.

1. “Adoption agency” means an individual or entity, including a corporation, company, partnership, firm, association, or society, other than the Department, licensed by the Department to place a child for adoption.
2. “Adoption Specialist” means the Department of Child Safety Specialist, or adoption agency staff person, who is responsible for managing the child’s case prior to the adoption finalization.
3. “Adoption subsidy” means the same as A.R.S. § 8-141, and includes nonrecurring adoption expenses under A.R.S. § 8-161 et seq. If the child qualifies, the adoption subsidy may include one or more of the following:
 - a. Medical, dental, and mental health subsidy;
 - b. Maintenance subsidy;
 - c. Special services subsidy; and
 - d. Reimbursement of nonrecurring adoption expenses.
4. “Adoption subsidy agreement” means the agreement in A.R.S. § 8-144 concerning the Adoption Subsidy Program and includes the agreement in A.R.S. § 8-162 concerning the nonrecurring adoption expense program.
5. “Adoption Subsidy Program” means a unit within the Department of Child Safety that administers the adoption subsidy.
6. “Adoption Subsidy Supervisor” means a Department employee who is responsible for the Adoption Subsidy Program within a defined geographic area, and that the Department has authorized to approve an adoption subsidy agreement.
7. “Adoptive parent” means an adult who the court has certified or approved to adopt a child, or an adult who has adopted a child.
8. “AHCCCS” means the Arizona Health Care Cost Containment System, which is the state’s program for medical assistance available under Title XIX of the Social Security Act and state public insurance statutes, A.R.S. Title 36, Chapter 29.
9. “AHCCCS hospital reimbursement system” means the payment structure that AHCCCS uses to pay for inpatient and outpatient hospital services.
10. “Complete adoption subsidy application” means a packet containing the following:
 - a. An “Adoptive Family Subsidy Application” form provided by the Department that the adoptive parent, the Adoption Specialist, and Adoption Specialist supervisor have completed and signed; and
 - b. The supporting documentation and information requested in the “Adoptive Family Subsidy Application.”
11. “Debilitating” means a lifelong, progressive, or fatal condition characterized by physical, mental, or developmental impairment that impedes an individual’s ability to function independently.



12. “Department” or “DCS” means the Arizona Department of Child Safety.
13. “Developmental disability” means the same as A.R.S. § 8-141.
14. “Diagnose” means to identify a physical, psychological, social, learning, or developmental condition or disability according to the accepted standards of the medical, mental health, or educational professions.
15. “Emergency situation” means a circumstance that, if un-addressed, would be detrimental to a child’s life, health, or safety.
16. “Emotional disturbance” means the same as A.R.S. § 8-141.
17. “Lawfully present in the United States” means the child is a U.S. citizen, national, or an alien authorized by an appropriate federal entity or court to be present in the United States.
18. “Legally free” means the parental rights of a child’s birth or legal parents have been terminated.
19. “Maintenance subsidy” means a monthly payment paid to a custodial adoptive parent to assist with the costs directly related to meeting some of the adopted child’s needs, including child care, health insurance co-payments and deductibles, and supplemental educational services for the adopted child.
20. “Mental disability” means the same as A.R.S. § 8-141.
21. “Nonrecurring adoption expenses” means the same as A.R.S. § 8-161, and are reasonable and necessary expenses directly related to the legal process of adopting a child with special needs. Allowable expenses include adoption fees, court costs, attorney’s fees, fingerprinting fees, home study fees, costs for physical and psychological examinations, costs for placement supervision, and travel expenses necessary to complete the adoption.
22. “Physical disability” means the same as A.R.S. § 8-141.
23. “Qualified professional” means a practitioner licensed or certified by the state of Arizona or another state to evaluate and diagnose a condition or disability, or provide medical, dental, mental health services, or approved by the Department to provide educational or respite services.
24. “Sibling relationship” means two or more brothers or sisters who are related by blood or by law, and who are being adopted by the same family.
25. “Special allowance” means funds provided for clothing or personal expenses, therapeutic or personal attendant care, and other specialized payments such as emergency clothing, education, and gift allowances.
26. “Special needs” means one or more of the following conditions which existed before the finalization of adoption:
 - a. Physical, mental or developmental disability.
 - b. Emotional disturbance.
 - c. High risk of physical or mental disease.
 - d. High risk of developmental disability.
 - e. Age of six or more years at the time of application for an adoption subsidy.
 - f. Sibling relationship.
 - g. Racial or ethnic factors.
 - h. High risk of severe emotional disturbance if removed from the care of his foster parents.
 - i. Any combination of the special needs described in this paragraph. A.R.S. § 8-141.
27. “Special services subsidy” means financial assistance for extraordinary, infrequent, or uncommon needs related to a special needs condition specified in the adoption subsidy agreement.
28. “Standard of care” means a medical or psychological procedure or process that is accepted as treatment for a specific illness, injury, medical, dental, learning, or psychological condition through custom, peer review, or consensus by the professional medical, dental, educational, or mental health community.
29. “Title IV-E” means section 473 of Title IV of the Social Security Act, 42 U.S.C. 673, which establishes the federal adoption assistance program.
30. “Title XIX” means Medicaid, as defined by Section 1900, Title XIX, of the Social Security Act, 42 U.S.C. 1396.
31. “Title XX” means the Social Services Block Grant, as defined by Section 2001, Title XX, of the Social Security Act, 42 U.S.C. 1397.
32. “Undiagnosed pre-existing special need condition” means a physical, mental or developmental disability or emotional disturbance that existed before a court finalized the child’s adoption, and that a qualified professional did not confirm before the child’s adoption.

R21-5-502. Eligibility Criteria

- A.** The Department shall determine if a child qualifies for the Title IV-E adoption assistance program prior to determining whether the child qualifies for the Adoption Subsidy Program.
- B.** A child shall qualify for Title IV-E adoption assistance if the child meets the additional eligibility criteria required in 42 U.S.C. 673(a)(2). If the child does not meet the additional criteria in Title IV-E, the child may still be eligible to receive adoption subsidy under subsection (C).
- C.** An Arizona child shall be eligible for adoption subsidy when the child is:
 1. In the care, custody, and control of the Department, or an adoption agency licensed in Arizona, or was previously adopted and received Title IV-E or Arizona adoption subsidy;
 2. Legally free for adoption;
 3. Lawfully present in the United States; and



- 4. Determined to be a child with special needs as defined by Title IV-E of the Social Security Act, and A.R.S. Title 8, Chapter 1, Articles 2 and 3 as follows:
 - a. The child cannot or should not be returned to the parent’s home;
 - b. The child cannot be placed with adoptive parents without an adoption subsidy due to a special need of the child; and
 - c. A reasonable but unsuccessful effort was made to place the child without an adoption subsidy, unless the Department determined that it was not in the child’s best interest to place the child with another family because of the child’s significant emotional ties with the prospective adoptive parent while in their care as a foster child.

R21-5-503. Application for Adoption Subsidy

A. The adoptive parent shall submit a complete adoption subsidy application to the Department Adoption Subsidy Program prior to the finalization of the adoption. A complete adoption subsidy application shall include the following:

- 1. The child’s:
 - a. Name;
 - b. Date of birth;
 - c. Social Security Number; and
 - d. Ethnicity;
- 2. The adoptive parents’:
 - a. Name;
 - b. Date of birth;
 - c. Social Security Number;
 - d. Ethnicity;
 - e. Marital status;
 - f. Occupation;
 - g. Relationship to the child;
 - h. Adoption certification status;
- 3. Information about:
 - a. The child’s special needs;
 - b. Whether the child is lawfully present in the U.S.;
 - c. The Department or the adoption agency that has custody of the child;
 - d. Whether the child is free for adoption;
 - e. Efforts to place the child for adoption without adoption subsidy;
 - f. Resources for which the child is eligible; and
 - g. Financial benefits for which the child is eligible; and
- 4. Description of:
 - a. The child’s pre-existing special need conditions;
 - b. The need for maintenance payments; and
 - c. Nonrecurring expenses.
- 5. The adoptive parent shall include the following documentation:
 - a. The child’s specific special need identified by a qualified professional;
 - b. The child’s need for a maintenance subsidy from:
 - i. The adoptive parent;
 - ii. Adoption Specialist; and
 - iii. A qualified professional;
 - c. The child’s lawful presence in the United States if the child is not a U.S. citizen;
 - d. The child’s pre-existing medical, dental, and mental health conditions as documented by a qualified professional:
 - i. Current within one year, or
 - ii. Provided in birth records; and
- 6. Assurances that the following information is available in the adoption case record:
 - a. The Department or adoption agency that has custody of the child;
 - b. That the child is free for adoption, and
 - c. Efforts to place the child for adoption without adoption subsidy.

B. An adoption subsidy application is complete when the Adoption Subsidy Program receives the application and all supporting documentation. Documentation may vary according to the conditions of the child, and may include the recommendations of qualified professionals.

R21-5-504. Eligibility Determination

The Department shall review the adoption subsidy application and determine eligibility according to the following:

- 1. The Department shall approve eligibility for adoption subsidy if a child meets the eligibility criteria listed in R21-5-502 and the adoptive parent submits a complete application. If the Department approves eligibility, the Department



shall create an adoption subsidy agreement that the adoptive parent and the Adoption Subsidy Supervisor or designee shall sign before the court enters the final order of adoption.

2. The Department shall deny eligibility for an adoption subsidy if a child does not meet the eligibility criteria listed in R21-5-502. If the Department denies an adoption subsidy, the Department shall send a notice to the adoptive parent that explains the reason for denial, the applicant's right to appeal, and the time-frame to file an appeal.

R21-5-505. Adoption Subsidy Agreement

A. The Department shall create an adoption subsidy agreement that lists the scope and nature of the subsidies provided, including:

1. The child's documented pre-existing special needs condition.
2. The types of subsidy approved.
3. The amount or rates as applicable to the types of subsidy approved, and
4. The specific terms and conditions of the agreement.

B. The adoption subsidy agreement shall become effective if the following occurs prior to the finalization of the adoption:

1. The adoptive parent signs the agreement and returns it to the Department Adoption Subsidy Program, and
2. The Adoption Subsidy Supervisor or designee signs the agreement.

R21-5-506. Medical, Dental, and Mental Health Subsidy

Adoption subsidy provides medical, dental, and mental health subsidies in the form of federal Medicaid coverage to a child in the Adoption Subsidy Program.

1. If the child resides in Arizona, AHCCCS determines eligibility; or
2. If the child resides in another State, the relevant state agency in that state determines Medicaid eligibility.

R21-5-507. Maintenance Subsidy

A. The maintenance subsidy may not cover all the daily living expenses of the adopted child. The Department and the adoptive parent shall negotiate the amount of maintenance subsidy based on a child's current special needs and the family's circumstances.

1. Under A.R.S. § 8-144(B), the amount of the maintenance subsidy shall not exceed the payments allowable for foster care, not including foster care special allowances.
2. The Department shall deduct private or public monetary benefits, such as benefits received through Title II of the Social Security Act, paid to the child from the monthly maintenance subsidy, as allowed under state or federal law. The adoptive parent shall report the receipt of any private or public monetary benefits for the child to the Adoption Subsidy Program as soon as the benefits are received.

B. Payment of Maintenance Subsidy

1. The Department shall not begin maintenance subsidy payments prior to the effective date of the adoption subsidy agreement.
2. The Department shall issue maintenance subsidy payments monthly to the adoptive parent as specified in the adoption subsidy agreement.

C. Renegotiation of the Maintenance Rate

1. The Department or the adoptive parent may initiate a change in the maintenance subsidy rate if there are changes in the child's needs.
2. The Department may renegotiate the amount of the adoption subsidy; however, the rate shall not exceed the payments allowable for foster care, not including foster care special allowances.
3. The adoptive parent shall provide the Department with documentation supporting the requested change in the maintenance subsidy rate.
4. If the child is in the care or custody of a state agency in Arizona or any other state, an adoption agency, or an individual other than the adoptive parent, the Department shall request, and the adoptive parent shall provide, documentation that the adoptive parent continues to be legally and financially responsible for the child.

R21-5-508. Special Services Subsidy

A. Special services subsidy shall be:

1. Related to a special needs condition listed in the adoption subsidy agreement; and
2. Necessary to improve or maintain the adopted child's functioning as documented by an appropriate qualified professional. The Adoption Subsidy Program shall review the documentation at least annually.

B. Services approved for the payment of special services subsidy shall be:

1. Provided by a qualified professional;
2. Provided in the least restrictive environment and as close as possible to the adoptive parent's residence;
3. In accordance with the "Standard of Care"; and
4. Not otherwise covered by or provided through maintenance subsidy, medical subsidy, dental subsidy, mental health subsidy, or other resources for which the adopted child is eligible.

C. The adoptive parent shall submit the special services request to the Adoption Subsidy Program and receive approval from the Adoption Subsidy Program prior to the adoptive parent's incurring the specified expense. The request shall include:

1. Documentation from a qualified professional that the service is necessary; and



- 2. Documentation that the adoptive parent had requested the service and the service provider had denied the request or documentation that the service is not available from other potential funding sources, such as AHCCCS/Medicaid, private insurance, school district, or other community resources.

D. Special services subsidy shall not include:

- 1. Payment for services to meet needs other than the pre-existing special needs conditions specifically listed in the adoption subsidy agreement;
- 2. Payment for medical or dental services usually considered to be routine, such as well-child checkups, immunizations, and other services not related to the child’s special needs conditions in the adoption subsidy agreement;
- 3. Payment for health-related services that are not medically necessary, as determined by a qualified professional;
- 4. Payment for social or recreational services such as routine child care, dance lessons, sports fees, camps, and similar services; and
- 5. Payment for educational services that are not necessary to meet the special needs conditions specifically listed in the adoption subsidy agreement, or the services for which the school district is responsible.

E. The Department may request an independent review by a qualified professional of a special services request to determine the necessity for medical, dental, psychological, or psychiatric testing or services, or to evaluate the appropriateness of the treatment plan or placement.

F. The Department may issue reimbursements to the adoptive parent for approved special services, or the Department may pay the service provider directly.

G. Special services subsidy reimbursement is limited as follows:

- 1. The Department shall reimburse in-state and out-of-state inpatient and outpatient hospital services according to the AHCCCS hospital reimbursement system, as required by A.R.S. § 8-142.01(A), if the adoptive parent has obtained prior approval for the service from the Department. Prior approval is not required in an emergency situation.
- 2. The Department shall not reimburse special services subsidy amounts in excess of the rates allowed by the Department or AHCCCS. The Department shall use the lowest applicable rates as established by AHCCCS, the Department’s Comprehensive Medical and Dental Program (CMDP), or rates established by the Adoption Subsidy Program to be customary and reasonable.
- 3. The Department shall not pay for requests that the adoptive parent or provider submits more than nine months after the date of service for which the adoptive parent or provider requests payment.

R21-5-509. Nonrecurring Adoption Expenses

A. Nonrecurring adoption expenses shall not cover expenses related to visiting and placing the child.

B. Reimbursement of nonrecurring adoption expenses is subject to the limitations in A.R.S. § 8-164.

R21-5-510. Annual Review; Reporting Change

A. Each year, the Department shall send a review form to the adoptive parent requesting that the adoptive parent provide:

- 1. Information indicating that the parent remains legally and financially responsible for the child;
- 2. Information on any change in benefits for the child, such as benefits received through Title II of the Social Security Act;
- 3. Information on any change in circumstances, including changes in residence, marital status, educational status, or other similar changes; and
- 4. A description of any changes in the child’s special needs conditions that are listed in the adoption subsidy agreement.

B. The adoptive parent shall provide the Department with the requested information within 30 days of the adoptive parent’s receipt of the review form.

C. The adoptive parent shall notify the Department in writing within five calendar days when any of the following occurs:

- 1. The adoptive parent is no longer legally responsible for the child;
- 2. The adoptive parent is no longer providing support to the child;
- 3. The child is no longer residing in the adoptive parent’s home;
- 4. The child has graduated from high school or obtained a general equivalency degree (GED);
- 5. The child has married;
- 6. The child has joined the military; or
- 7. The child dies.

R21-5-511. Termination of Adoption Subsidy

The Department shall terminate an adoption subsidy when any of the following occurs:

- 1. The child turns 18 years old and is not enrolled in and attending high school or a program leading to a high school diploma or general equivalency degree (GED);
- 2. The child is aged 18 through 21 years, has been continuously enrolled in school, and either drops out of school, graduates from high school, or obtains a general equivalency degree (GED);
- 3. The child turns 22 years old;
- 4. The adoptive parent is no longer legally responsible for the child;
- 5. The adoptive parent is no longer providing support to the child;
- 6. The child marries;



7. The child joins the military;
8. The special needs conditions of the child no longer exist;
9. The child dies;
10. The adoptive single parent or both adoptive parents die; or
11. The adoptive parent requests termination.

R21-5-512. New or Amended Adoption Subsidy Agreement

An adoptive parent may apply for a new or amended adoption subsidy agreement after the adoption is final, only upon documentation of an undiagnosed pre-existing special needs condition that existed before the finalization of the adoption.

1. The adoptive parent shall send the Department a written request for adoption subsidy with documentation from a qualified professional diagnosing the special needs condition and confirming that it existed before the final order of adoption.
2. The adoptive parent and the Department shall follow the procedures in this Article for processing applications and determining eligibility.
3. If the Department finds that the child has an undiagnosed pre-existing special needs condition that, if diagnosed prior to the adoption, would have met the eligibility criteria listed in R21-5-502, the Department shall grant a new subsidy or amend the adoption subsidy agreement to cover this special needs condition.

R21-5-513. Appeals

Appeals for the Adoption Subsidy Program shall follow the process in 21 A.A.C. 1, Article 3.

R21-5-514. Confidentiality

The Department shall maintain the confidentiality of all information used in the Adoption Subsidy Program according to all applicable federal and state laws.