



## TITLE 21. CHILD SAFETY

### CHAPTER 5. DEPARTMENT OF CHILD SAFETY - PERMANENCY AND SUPPORT SERVICES

The table of contents on the first page contains quick links to the referenced page numbers in this Chapter. Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

Sections, Parts, Exhibits, Tables or Appendices codified in this supplement. The list provided contains quick links to the updated rules.

This Chapter contains a rule Section that expired in the Arizona Administrative Code between the dates of April 1, 2020 through June 30, 2020.

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#### The release of this Chapter in Supp. 20-2 replaces Supp. 20-1, 1-20 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

## PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director  
ADMINISTRATIVE RULES DIVISION

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### RULES

The definition for a rule is provided for under A.R.S. § 41-1001. “‘Rule’ means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency.”

### THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The “R” stands for “rule” with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.

First Quarter: January 1 - March 31

Second Quarter: April 1 - June 30

Third Quarter: July 1 - September 30

Fourth Quarter: October 1 - December 31

For example, the first supplement for the first quarter of 2019 is cited as Supp. 19-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

### AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document’s content has been compromised.

### HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

### ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature’s website, [www.azleg.gov](http://www.azleg.gov). An agency’s authority

note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

### SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State’s website, under Services-> Legislative Filings.

### EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency’s exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at [www.azsos.gov/rules](http://www.azsos.gov/rules), click on the *Administrative Register* link.

Editor’s notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

### EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

### PERSONAL USE/COMMERCIAL USE

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*Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.*



Administrative Rules Division
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TITLE 21. CHILD SAFETY

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

Authority: A.R.S. § 8-453(A)(5)

Editor's Note: Chapter 5 contains rules which were exempt from the regular rulemaking process under Laws 2014, 2nd Special Session, Ch. 1, Sec. 158. The law required the Department to post on its website proposed exempt rulemakings for a minimum of 30 days, at which time the public could provide written comments. In addition, at least two public hearings were held prior to the filing of the final exempt rules. Because the Department solicited comments on its proposed exempt rules, the rules filed with the Office of the Secretary of State are considered final exempt rules (Supp. 15-4).

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## CHAPTER 5. DEPARTMENT OF CHILD SAFETY - PERMANENCY AND SUPPORT SERVICES

**ARTICLE 1. INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN****R21-5-101. Definitions**

The definitions contained in A.R.S. § 8-548 and the following definitions apply in this Article:

1. "Child" means any person less than the age of 18 years.
2. "Compact" or "ICPC" means the Interstate Compact on the Placement of Children.
3. "Compact Administrator" means the same as A.R.S. § 8-548.
4. "Compact State" means a state that is a member of the Interstate Compact on the Placement of Children.
5. "Department" or "DCS" means the Arizona Department of Child Safety.
6. "Interstate placement" means any movement of a child from one state to another state for the purpose of establishing a suitable living environment and providing necessary care.
7. "Intra-state placement" means the placement of a child within a state by an agency of that state.
8. "Placement" means the same as in A.R.S. § 8-548.
9. "Receiving state" means the same as in A.R.S. § 8-548.
10. "Sending agency" means the same as in A.R.S. § 8-548.
11. "Sending state" means the state where the sending agency is located, or the state in which the court holds exclusive jurisdiction over a child, which causes, permits, or enables the child to be sent to another state.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-102. Authority**

The ICPC is governed by A.R.S. §§ 8-548 through 8-548.06 and the ICPC regulations. ICPC regulations are posted on the Association of Administrators of the Interstate Compact on the Placement of Children website. These regulations supplement those authorities and must be read in conjunction with them.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-103. Conditions of Placement**

No person, court, or public or private agency in a Compact State shall place a child in another Compact State until the Compact Administrator in the receiving state has notified the Compact Administrator in the sending state, on a prescribed form, that such placement does not appear to be contrary to the interests of the child and does not violate any applicable laws of the receiving state.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-104. Financial Responsibility**

The sending person, court, or public or private agency shall be held financially responsible for:

1. Sending the child to the receiving state;
2. Returning the child to the sending state; and
3. Treatment of the child during the period of placement.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-105. Applicability**

A. Except as listed in subsection (B), the ICPC applies to the placement of:

1. Children in another Compact State by an agency, court or person, which has care or custody of the children.
  2. Foreign-born children who are brought under the jurisdiction of a Compact State by an international child placing agency.
- B. In addition to the children listed in statute that are not subject to ICPC, the ICPC does not apply:
1. When a child is placed in an institution caring for the mentally ill, mentally impaired, epileptic, or in any institution primarily educational in character or in any hospital or other medical facility.
  2. To the placement of children into and out of the United States when the other jurisdiction involved is a foreign country.
  3. When a sending court or agency seeks an independent (not ICPC related) courtesy check for placement with a parent from whom the child was not removed, the responsibility for credentials and quality of the courtesy check rests directly with the sending court or agency and the person or party in the receiving state who agrees to conduct the courtesy check without invoking the protection of the ICPC home study process. This does not prohibit a sending state from requesting an ICPC.
  4. The Compact does not apply in court cases of paternity, divorce, custody, and probate pursuant to which or in situations where children are being placed with parents or relatives or non-relatives.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-106. Placement Approval**

Sending and receiving states must obtain approval from the Compact Administrator in both the sending and receiving states prior to the placement of a child in another Compact State.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**R21-5-107. Operations**

In providing services provided under this Article, the sending and the receiving state shall:

1. Maintain all information required by state and federal law.
2. Comply with all federal and their respective state laws and regulations regarding the disclosure and use of confidential health and personal information.
3. Comply with all federal and their respective state non-discrimination laws and regulations.
4. Ensure that interpreters, including assistance for the visually or hearing impaired, are available to those receiving services at no cost.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 2979, effective January 2, 2016 (Supp. 15-4).

**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

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- 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 19th 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 ser-

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- vice 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 AHCCS) for Medicaid eligible youth who have reached the age of majority in foster care.
- Historical Note**
- New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4). Amended by emergency rulemaking at 25 A.A.R. 771, effective March 21, 2019, for 180 days (Supp. 19-1). Emergency amendments renewed at 25 A.A.R. 2485, for an additional 180 days effective September 18, 2019 (Supp. 19-3). Emergency expired; amended by final rulemaking at 26 A.A.R. 241, effective March 15, 2020 (Supp. 20-1).
- 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.
- Historical Note**
- New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).
- 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.
- Historical Note**
- New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).
- 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;

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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.
- Historical Note**
- New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).
- R21-5-205. Out-of-home Care Services for Foster Youth 18 through 20 Years of Age**
- 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 was either in out-of-home care or in secure care, as defined by A.R.S. § 8-201, through a delinquency action, 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. Expeditiously providing or otherwise arranging the preferred intervention strategy.
- Historical Note**
- New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4). Amended by emergency rulemaking at 25 A.A.R. 771, effective March 21, 2019, for 180 days (Supp. 19-1). Emergency amendments renewed at 25 A.A.R. 2485, for an additional 180 days effective September 18, 2019 (Supp. 19-3). Emergency expired; amended by final rulemaking at 26 A.A.R. 241, effective March 15, 2020 (Supp. 20-1).
- 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

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- 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).

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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) through (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

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2. Arrange for a safe living arrangement and sufficient support services to reasonably ensure the foster youth's safety in the interim.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

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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.
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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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,

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- 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.
- 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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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:

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-307. Expired****Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).  
Section expired under A.R.S. § 41-1056(J) at 26 A.A.R. 1322, effective June 3, 2020 (Supp. 20-2).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**ARTICLE 4. ADOPTION ENTITY SERVICES****R21-5-401. Definitions**

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

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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;

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- 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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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).

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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;

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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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

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- 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).
- 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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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:

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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;

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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.
- 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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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;
- 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.

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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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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).

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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;

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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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

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- 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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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 unaddressed, 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.

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- 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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

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**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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:

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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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

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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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**R21-5-513. Appeals**

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

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).

**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.

**Historical Note**

New Section made by final exempt rulemaking at 21 A.A.R. 3255, effective January 24, 2016 (Supp. 15-4).