



NOTICES OF FINAL EXEMPT RULEMAKING

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

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

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

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 21. CHILD SAFETY

CHAPTER 6. DEPARTMENT OF CHILD SAFETY – FOSTER HOME LICENSING

[R15-187]

PREAMBLE

<u>I. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article 1	New Article
R21-6-101	New Section
Article 2	New Article
R21-6-201	New Section
R21-6-202	New Section
R21-6-203	New Section
R21-6-204	New Section
R21-6-205	New Section
R21-6-206	New Section
R21-6-207	New Section
R21-6-208	New Section
R21-6-209	New Section
R21-6-210	New Section
R21-6-211	New Section
R21-6-212	New Section
R21-6-213	New Section
R21-6-214	New Section
R21-6-215	New Section
R21-6-216	New Section
R21-6-217	New Section
R21-6-218	New Section
R21-6-219	New Section
R21-6-220	New Section
R21-6-221	New Section
R21-6-222	New Section
Article 3	New Article
R21-6-301	New Section
R21-6-302	New Section
R21-6-303	New Section
R21-6-304	New Section
R21-6-305	New Section
R21-6-306	New Section
R21-6-307	New Section
R21-6-308	New Section
R21-6-309	New Section
R21-6-310	New Section
R21-6-311	New Section
R21-6-312	New Section
R21-6-313	New Section



R21-6-314	New Section
R21-6-315	New Section
R21-6-316	New Section
R21-6-317	New Section
R21-6-318	New Section
R21-6-319	New Section
R21-6-320	New Section
R21-6-321	New Section
R21-6-322	New Section
R21-6-323	New Section
R21-6-324	New Section
R21-6-325	New Section
R21-6-326	New Section
R21-6-327	New Section
R21-6-328	New Section
R21-6-329	New Section
R21-6-330	New Section
R21-6-331	New Section
R21-6-332	New Section
Article 4	New Article
R21-6-401	New Section
R21-6-402	New Section
R21-6-403	New Section
R21-6-404	New Section
R21-6-405	New Section
R21-6-406	New Section
R21-6-407	New Section
R21-6-408	New Section
R21-6-409	New Section
R21-6-410	New Section
R21-6-411	New Section
R21-6-412	New Section
R21-6-413	New Section
R21-6-414	New Section
R21-6-415	New Section
R21-6-416	New Section
R21-6-417	New Section
R21-6-418	New Section
R21-6-419	New Section

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

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

Implementing statutes: A.R.S. §§ 8-502, 8-503, 8-506, 8-507, 8-509, 8-511, 8-514, 8-453(A)(11), 8-453(B)(2), 8-529 and 8-530.

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

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

January 24, 2016

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

Notice of Public Information: 21 A.A.R. 1646, August 21, 2015

Notice of Oral Proceeding: 21 A.A.R. 1650, August 21, 2015

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

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

A.R.S. § 8-503 gives the Arizona Department of Child Safety, (the “Department”) authority to establish rules and regulations for the licensing of foster homes, including group homes. A.R.S. § 8-453(A)(11) gives the Department the authority to enter into contracts and incur obligations and A.R.S. § 8-453(B)(2) enables the Department to contract with a private entity to provide services. A.R.S. § 8-507 gives the Department the authority to take an adverse action against a foster home operating without a license. A.R.S. § 8-509 requires the Department to have proof that an applicant for a foster home license has received six hours of initial foster parent training and prior to renewal of a foster home license, six additional hours of training per year has been completed. A.R.S. § 8-514 gives the Department the authority to have flexibility for the placement for children in sibling groups, or kinship care, placement preferences for a Native American child and requirements for information to be provided to the foster parent and records to be kept by the foster parent. A.R.S. § 8-502 specifies that a foster parent’s personal information may not be released. A.R.S. § 8-506 gives the Department the authority to deny, suspend, or revoke a foster home license. A.R.S. § 8-511 provides the actions a foster parent shall take when leaving a foster child in the care of another person. A.R.S. § 8-529 and A.R.S. § 8-530 list a foster child and a foster parent’s right respectively.

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

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

None

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

Not applicable

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

Not applicable

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

Not applicable

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

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

Public hearings on these rules were held on September 8, 2015 in Tucson and September 10, 2015 in Phoenix. Attendees were provided the opportunity to provide oral or written comments. A copy of each Article was posted to the Department’s website from August 3, 2015 to September 11, 2015 along with an on-line survey to obtain public comments.

Comments were received in a number of areas of the rules. The public meetings and written comments had concerns with rules such as out-of-state travel, number of children a home could be licensed for, bedroom arrangements, licensing, training update, amendment, investigation timeframes, and requirements for the certification of specialized services.

Additional meetings were held on September 29, 2015 and October 8, 2015 to obtain greater clarification from stakeholders before finalizing the rules. The Department reviewed all written comments received on-line and in the U.S. Mail and incorporated comments where applicable in the final rule package. Stakeholders were also given an opportunity to review the rule package before it was finalized.



- 12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
An individual license is required to have a foster home. Foster Home licenses are exempt under A.R.S. § 41-1037 and do not require a general permit.
- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**  
42 U.S.C. 622, 45 U.S.C. 623, 45 U.S.C. 671, 45 U.S.C. 672, 45 U.S.C. 675, U.S.C. 5113, and 45 CFR 1356.30. The rules are not more stringent than federal law.
- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**  
Not applicable
- 13. A list of any incorporated by reference material and its location in the rule:**  
None
- 14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**  
The rule was not previously made, amended, repealed, or renumbered as an emergency rule.
- 15. The full text of the rules follows:**

## TITLE 21. CHILD SAFETY

### CHAPTER 4. DEPARTMENT OF CHILD SAFETY – FOSTER HOME LICENSING

#### ARTICLE 1. DEFINITIONS

Section  
R21-6-101. Definitions

#### ARTICLE 2. LICENSING AGENCY REQUIREMENTS FOR FOSTER HOME LICENSING AGENCIES

Section  
R21-6-201. Minimum Qualifications for an Applicant  
R21-6-202. Professional Judgment  
R21-6-203. Conflicts of Interest  
R21-6-204. Rights of the Applicant and Foster Parent  
R21-6-205. Licensing Agency Responsibility: Application for an Initial Foster Home License  
R21-6-206. Licensing Agency Foster Home Study and Assessment  
R21-6-207. Request for Additional Information During Licensing Review  
R21-6-208. Statement of Understanding  
R21-6-209. Verification of Equipment at Time of Placement  
R21-6-210. Approval of Additional Placements from Another Child Placing Agency  
R21-6-211. Life Safety Inspection  
R21-6-212. Training Reporting Update  
R21-6-213. Application for a Renewal License  
R21-6-214. Application for License Reinstatement  
R21-6-215. The Licensing Record  
R21-6-216. Amending the License  
R21-6-217. Evaluating Changes in Household Composition  
R21-6-218. Routine Monitoring and Verification of Ongoing Compliance  
R21-6-219. Corrective Action Plan  
R21-6-220. Notification Requirements: Unusual Incident  
R21-6-221. Allegations of Child Abuse or Neglect; Licensing Complaints  
R21-6-222. Waiver of Non Safety Licensing Requirements for Kinship Care

#### ARTICLE 3. LICENSING REQUIREMENTS FOR FOSTER PARENTS

Section  
R21-6-301. General Requirements for Foster Parents  
R21-6-302. Requirements for Household Members



- R21-6-303. Training Requirements
- R21-6-304. Life Safety Inspection
- R21-6-305. Nurturing Responsibilities
- R21-6-306. Supervisory Responsibilities;
- R21-6-307. Reasonable and Prudent Parenting Standard
- R21-6-308. Positive Discipline
- R21-6-309. Capacity Requirements
- R21-6-310. Sleeping Arrangements
- R21-6-311. Bedrooms, Beds and Bedding
- R21-6-312. Meals and Nutritional Needs
- R21-6-313. Hygiene and Daily Needs
- R21-6-314. Health and Medical Care
- R21-6-315. Smoking Restrictions
- R21-6-316. Transportation Responsibilities
- R21-6-317. Education and Development
- R21-6-318. Religion and Cultural Practices
- R21-6-319. Recreation
- R21-6-320. Out-of-State Travel
- R21-6-321. Rights of a Foster Child
- R21-6-322. Confidential Information
- R21-6-323. Information and Records to be Provided to the Foster Parent
- R21-6-324. Records Maintained by the Foster Parent
- R21-6-325. Participation in the Service Team
- R21-6-326. Notification Requirements; Unusual Incident
- R21-6-327. Notification Requirements; Home or Household Change
- R21-6-328. Emergency and Disaster Plan
- R21-6-329. Special Provisions for Respite Care
- R21-6-330. Special Provisions for an In-Home Respite Foster Parent
- R21-6-331. Requirements for Certification to Provide for Specialized Services
- R21-6-332. Placement of a Child with a Developmental Disability in a Foster Home

**ARTICLE 4. THE LICENSING PROCESS FOR FOSTER PARENTS**

Section

- R21-6-401. Minimum Qualifications to Apply for a License
- R21-6-402. Rights of the Applicant and Foster Parent
- R21-6-403. Application for an Initial License
- R21-6-404. Types of Licenses
- R21-6-405. Home Study and Assessment
- R21-6-406. The Licensing Decision
- R21-6-407. Licensing Timeframes
- R21-6-408. Licensing Limitations
- R21-6-409. Training Reporting Update
- R21-6-410. Amending the License
- R21-6-411. Addition of Household Members
- R21-6-412. Application for a Renewal License
- R21-6-413. Application for License Reinstatement
- R21-6-414. Licensing Actions
- R21-6-415. Routine Monitoring and Verification of Ongoing Compliance
- R21-6-416. Corrective Action Plan
- R21-6-417. The Appeal Process
- R21-6-418. Allegations of Abuse or Neglect; Licensing Complaints
- R21-6-419. Waiver of Non-Safety Licensing Requirements for Kinship Care

**ARTICLE 1. DEFINITIONS**

**R21-6-101. Definitions**

The definitions contained in A.R.S. § 8-501 and the following definitions apply when used in this Chapter.

1. "Adult" means any person 18 years of age or older.
2. "Adverse licensing action" means a decision by OLR to deny, suspend, or revoke a license.
3. "Appeal" means the legal right of an applicant to contest an adverse licensing action.
4. "Applicant" means an individual or married couple, unless excepted under R21-6-408, who submit an application for a license as a foster home.
5. "Application" means the documentation and information required by the OLR to evaluate an applicant for a license and includes the application form completed via the Department's electronic database to initiate the licensing pro-



- cess. The application authorizes the licensing agency and the OLR to conduct assessments and investigations to verify qualifications and compliance with licensing requirements.
6. “Careful and sensible judgment” means the use of decisions and actions that maintain the health, safety, and well-being of a foster child.
  7. “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.
  8. “Child” means any person less than 18 years of age.
  9. “Child developmental home” means the same as A.R.S. § 36-551(11). The DES Division of Developmental Disabilities (DDD) licenses these types of residences to care for a child with a developmental disability in a family setting.
  10. “Child Placing Agency” means the same as A.R.S. § 8-501(A)(1)(iii):
    - (iii) Any agency maintained by this state, a political subdivision of this state or a person, firm, corporation, association or organization to place children or unmarried mothers in a foster home.*
  11. “Child Safety Worker” means the same as A.R.S. § 8-801.
  12. “Corrective action” means a plan specified by the OLR for a foster parent to remedy the violation of a licensing requirement within a specified time-frame.
  13. “Criminal record self-disclosure” means a person’s statement made under penalty of perjury, using the form approved by the OLR, attesting to whether the person:
    - a. Has a record of any arrests, convictions, or pending indictments;
    - b. Has committed a crime specified in the Arizona Revised Statutes as a precluding crime for the issuance of a fingerprint clearance card meeting Level One requirements; or
    - c. Is a registered sex offender.
  14. “DCS Report” means the same as “report for investigation” in A.R.S. § 8-201(30).
  15. “Department” or “DCS” means the Arizona Department of Child Safety
  16. “DES” means the Arizona Department of Economic Security.
  17. “Developmentally appropriate” means:
    - a. The activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical and behavioral capacities that are typical for an age or age group; and
    - b. In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child.
  18. “Developmental Disability” means the same as in A.R.S. § 36-551.
  19. “Fingerprint clearance card” means the card issued by the Arizona Department of Public Safety (A.R.S. §§ 41-1758 et. seq.) certifying that the person named on the card does not have a state or federal criminal history record containing an offense specified as a precluding crime in A.R.S. Title 41, Chapter 12.
  20. “Firearm” means any loaded or unloaded handgun, pistol, revolver, rifle, shotgun, or other weapon that will expel, is designed to expel, or may be readily converted to expel a projectile by the action of an explosive.
  21. “Fitness” means the ability of an applicant or foster parent to:
    - a. Provide a safe and nurturing environment for a foster child; and
    - b. Comply with the foster home licensing requirements.
  22. “Foster care” means care and supervision provided to a child who is in the custody of the state.
  23. “Foster child” means a person less than 18 years of age who is receiving foster care. “Foster child” is further defined under A.R.S. § 8-501(4). For the purpose of this Chapter, “foster child”:
    - a. Includes a young adult less than 21 years of age who continues to reside in a foster home under a written individual case plan agreement for out-of-home care, or under the Independent Living Program defined in A.R.S. § 8-521;
    - b. Includes a child with a Developmental Disability placed by the Department in a child developmental home;
    - c. Does not include a young adult who has returned to a foster home under the Transitional Independent Living Program defined in A.R.S. § 8-521.01; and
    - d. Does not include the birth or adopted child, of an applicant, foster parent, or other household member.
  24. “Foster home” means a residence where a foster parent lives and includes a detached home, all structures, and the entire premises belonging to the home, including apartments, guest homes, garages, sheds, and motorhomes. “Foster home” is further defined under A.R.S. § 8-501.
  25. “Foster parent” means an individual, or married couple, who provides foster care with a license from the OLR. “Foster parent” is further defined under A.R.S. § 8-501.
  26. “Group foster home” means a class of foster home in which the licensed foster parent is certified to provide care to more than five but not more than 10 foster children at a time. “Group foster home” is further defined under A.R.S. § 8-501.
  27. “Guardian” means a person who is authorized by law to have the care and custody of a child.



- 28. “Hazard” means a condition or situation that may cause or result in physical injury or illness to a child.
- 29. “Health self-disclosure” means an adult household member’s declaration, using the form approved by OLR attesting to the person’s physical, medical, and emotional health. The health-self disclosure:
  - a. Identifies any past or present:
    - i. Major illness;
    - ii. Communicable disease;
    - iii. Surgery;
    - iv. Drug or substance abuse problem or treatment; and
    - v. Other medical, physical, or mental health condition or treatment; and
  - b. Identifies all medications, treatments, adaptive equipment, or other accommodations used to reduce or eliminate any medical, physical, or mental health conditions.
- 30. “Home” means the residence where a foster parent lives. “Home” may be used interchangeably with “foster home.”
- 31. “Home and Community Based Services” or “HCBS” means the same as in R6-6-1501. The DES Division of Developmental Disabilities (DDD), Office of Licensing, Certification, and Regulation (OLCR) rules on HCBS are in 6 A.A.C., Chapter 6, Article 15.
- 32. “Household” means all children and adults living in a foster parent’s home.
- 33. “Household member” means any individual who lives or intends to live in the foster home or on the premises, for 30 consecutive days or more, or periodically throughout the year for a total of 30 non-consecutive days or more. “Household member”:
  - a. Includes the applicant, licensee, housemates, tenants; children of the applicant, licensee, housemates, or tenants; and adults participating in the Transitional Independent Living Program defined in A.R.S. § 8-521.01; and
  - b. Does not include a foster child, an adult with a Developmental Disability, or young adult who resides in a foster home under a written agreement with the Department for continued care or under the Independent Living Program defined in A.R.S. § 8-521.
- 34. “Individual Family Service Plan” or “IFSP” means a written statement of services and supports to be provided to a child and the child’s family for children less than the age of three years who are eligible for the Arizona Early Intervention Program (AZEIP) to enhance the capacity of families and care givers to support the child’s development and engagement and participation in everyday routines and activities.
- 35. “In-home respite foster parent” means an individual licensed to provide respite care in a licensed foster home, which is not that individual’s own home.
- 36. “Kinship care” means that the care and supervision of a foster child in a foster home is provided by a relative or an individual who has a significant relationship with the child.
- 37. “Lawfully present” means that an individual is a United States citizen or national or an alien authorized by an appropriate federal entity or court to be present in the United States.
- 38. “License” means the permission granted by OLR, to legally operate a foster home and includes an initial, renewal, and amended license.
- 39. “Licensee” means the individual or married couple who is approved by OLR to be licensed as a foster parent.
- 40. “Licensing agency” means an entity, which may include a licensed Placing Agency the Department contracts with to recruit and train foster parents and monitor a licensed foster home.
- 41. “Licensing decision” means the issuance, denial, suspension, revocation of, or amendment to a license by OLR in response to the receipt and review of:
  - a. An application for initial or renewal licensure,
  - b. An application to amend a license, or
  - c. A complaint or investigation conducted according to R21-6-418.
- 42. “Licensing record” means the information maintained by a licensing agency or by the OLR, for the purpose of documenting the fitness of and compliance with licensing requirements, laws, and rules of an applicant or foster parent.
- 43. “Licensing requirements” means the rules specified in this Chapter and Chapter 8 of this Title.
- 44. “Life Safety Inspection” means an examination of a family foster home by OLR to verify compliance with standards intended to safeguard a foster child from fire and other hazardous conditions.
- 45. “Lock” means a device operated by a key, combination, magnet, keycard, or other tool to safeguard medications, swimming pools, weapons, and highly toxic substances.
- 46. “Medically complex foster home” means a class of foster home in which the licensed foster parent is certified to provide care to a foster child identified by the Department as requiring special care for medically complex needs.
- 47. “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.
- 48. “Medication” means both prescription and over-the-counter remedies.



49. “Mobile home” means a trailer that is mounted on wheels or a platform with utility connections exposed under the trailer.
50. “Need to know” means the legitimate requirement of a person or organization to know, access, or possess confidential or personally identifiable information that is critical to carry out official duties or to provide services to the child.
51. “OCWI Investigator” means a DCS Investigator who is assigned to the Office of Child Welfare Investigations, and whose primary duties and responsibilities are prescribed in A.R.S. § 8-471.
52. “Office of Licensing and Regulation” or “OLR”, means the administration within DCS that is responsible for reviewing and evaluating applications for licensure; supervising and monitoring licensees; and completing all official licensing actions, including issuing, denying, amending, suspending, and revoking a license.
53. “Physical punishment” means the deliberate infliction of pain or discomfort to a person.
54. “Physical restraint” means the same as A.R.S. § 8-501(A)(14)(b)(iii).
55. “Physician’s Statement” means information on the physical, emotional, and mental health of any adult household member, providing care for a foster child, using a form approved by OLR. The statement shall:
  - a. Be based on an examination by a medical professional.
  - b. State whether the household member has a condition that could interfere with the provision of safe care and supervision to a foster child, and
  - c. Include a completed health self-disclosure by the household member.
56. “Placement” means the act of finding an appropriate foster home for a foster child and putting the foster child in that foster home.
57. “Placement agreement” means a written arrangement between a licensee and a Child Placing Agency as specified under R21-6-323.
58. “Placement packet” means documents containing key information needed for a foster parent to understand the needs of the foster child, including medical records and school records.
59. “Pool” means any natural or man-made body of water located at a foster home or on its premises that:
  - a. Could be used for swimming, recreational, therapeutic, or decorative purposes;
  - b. Is greater than 18 inches in depth; and
  - c. Includes swimming pools, spas, hot tubs, fountains, and fishponds.
60. “Positive discipline” means a teaching process through which a child learns to develop and maintain the self-control, self-reliance, self-esteem, and orderly conduct necessary to assume responsibilities, make daily living decisions, and live according to generally accepted levels of social behavior.
61. “Premises” means:
  - a. The home; and
  - b. The property surrounding the home that is owned, leased, or controlled by the applicant or licensee.
62. “Protective services registries” means the Central Registry and the Adult Protective Services Registry.
63. “Public school” means a school, including a charter school, that is maintained at public expense for the education of the children of a community or district and that constitutes a part of a system of free public education commonly including primary and secondary education.
64. “Reasonable and prudent parenting standard” means the practice of making careful and sensible parental decisions that maintain the health, safety, and best interests of a foster child while at the same time encouraging the emotional and developmental growth of the child when determining whether to allow the child to participate in extracurricular, enrichment, cultural, and social activities.
65. “Receiving foster home” means a class of foster home in which the licensed foster parent is certified to receive a foster child with limited notice and for a limited period of time.
66. “Relative” means an individual who is related by blood, marriage, or adoption to the foster child. For American Indian and Alaska Native children, “relative” could also include a tribally defined extended family relationship.
67. “Respite care” means the provision of temporary care and supervision of a foster child to relieve a foster parent from the duty to care for the foster child for a limited period of time.
68. “Safeguard” means to take reasonable measures to eliminate the risk of harm to a foster child. Where a specific method is not otherwise prescribed in this Chapter, safeguarding may include:
  - a. Locking up a particular substance or item;
  - b. Putting a substance or item out of reach of a foster child;
  - c. Erecting a barrier that prevents a foster child from reaching a particular place, item, or substance;
  - d. Using protective safety devices; or
  - e. Providing supervision.
69. “Service Team” means a group of persons brought together to ensure the best care for a foster child and at a minimum, includes a child age 14 years and older, staff from the Department, and the licensing agency.
70. “Sibling” means brothers and sisters by birth or adoption, stepbrothers, stepsisters, half-brothers, and half-sisters.
71. “Skirting” means the barrier around the base of a mobile home that is intended to protect utility connections from damage or unauthorized contact.



- 72. “Slip-resistant surface” means flooring that provides friction to help prevent falls when the surface is wet. A slip-resistant surface may be achieved by rippling or corrugating the surface, applying textured strips, installing a secured carpet, using rubber mats, and other similar measures.
- 73. “Smoking” means burning or vaporizing tobacco products or other substances in a cigarette, cigar, pipe, electronic cigarette, or by means of equipment to inhale and exhale the smoke or vapor.
- 74. “Specialized service” means a higher level of skill, training, and experience required for certification as a Group, Medically Complex, Therapeutic, or Receiving foster home.
- 75. “Stability” means having the necessary resources, surroundings, temperament, and demeanor to maintain a safe, steady, and consistent home environment for a foster child.
- 76. “Statement of Understanding” means a signed document completed by an applicant or foster parent confirming the person has read, understands, and agrees to comply with all applicable laws, rules, and regulations relating to the operation of a foster home.
- 77. “Substantial compliance with licensing requirements” means that the nature and number of violations of licensing requirements are not significant and:
  - a. Do not pose a risk to the life, health, safety, or welfare of a child receiving care;
  - b. Do not constitute a pattern of noncompliance or a failure to implement required corrective action; and
  - c. Are not the result of misrepresentation, falsification, or fraud by the applicant or foster parent.
- 78. “Therapeutic foster home” means a class of foster home in which the care is provided by a foster parent who has received specialized training to provide care and services within a support system of clinical and consultative services to children with behavioral health needs.
- 79. “Trigger locked” means a method to render a firearm temporarily or permanently inoperable by blocking the firing or discharge mechanism for the firearm with a locked device.
- 80. “Weapon” means a firearm, bow and arrows, or other device or instrument, which in the manner it is used or intended to be used is capable of inflicting serious bodily injury, or causing death.
- 81. “UL approved” means a safety certification mark of a Nationally Recognized Testing Laboratory (NRTL), such as UL (Underwriters Laboratories) or ETL (Electro Technical Laboratory) on an electronic device.

**ARTICLE 2. LICENSING AGENCY REQUIREMENTS FOR FOSTER HOME LICENSING AGENCIES**

**R21-6-201. Minimum Qualifications for an Applicant**

The licensing agency shall ensure the right of any individual or married couple to apply for a foster home license, regardless of gender, race, religion, political affiliation, national origin, disability, or sexual orientation, if the applicant meets the minimum qualifications specified under Chapter 6 of this Title.

**R21-6-202. Professional Judgment**

The licensing agency shall use professional judgment in all recommendations made and inquiries conducted in the course of licensure. “Professional judgment” means an objective and thorough analysis based on:

- 1. Commonly accepted industry standards and practices for the regulation of care for children;
- 2. Knowledge and experience in accordance with contractual requirements;
- 3. Interviews, assessments, observations, references, and documented sources of verifiable information; and
- 4. Knowledge of laws, rules, and guidelines for providing foster care.

**R21-6-203. Conflicts of Interest**

- A. The licensing agency shall adopt a written code of ethics regarding conflicts of interest.
- B. The licensing agency shall assign the following duties for any conflicts of interest other than those listed in subsection (C) to an impartial party, such as a neutral employee or another licensing agency.
  - 1. The home study and assessment responsibilities as described under R21-6-206; and
  - 2. Licensing complaints as described under R21-6-221.
- C. The licensing agency shall not accept as an applicant a person who is:
  - 1. An employee of the licensing agency, a service provider, a contractor, or a major donor; or
  - 2. Related by blood or marriage to an employee of the licensing agency. For the purpose of this subsection, relatives include the biological, adoptive, or step:
    - a. Child,
    - b. Grandchild,
    - c. Parent,
    - d. Parent of spouse,
    - e. Grandparent,
    - f. Grandparent of spouse,
    - g. Sibling,
    - h. Sibling of spouse,
    - i. Aunt, or
    - j. Uncle.

**D.** A licensing agency that has a conflict of interest at the time this Article is published in the Arizona Administrative Register shall have 90 days to transfer cases to an alternative licensing agency that does not have a conflict of interest under



subsection (C).

**R21-6-204. Rights of the Applicant and Foster Parent**

- A.** In addition to the inspection and due process rights specified under A.R.S. § 41-1009, the licensing agency shall ensure that each applicant and foster parent is informed of and afforded the rights specified under this Section. OLR may request that the licensing agency submit the notice used by the licensing agency to OLR.
- B.** The licensing agency shall ensure that a foster parent or applicant is permitted to access their licensing record as follows:
1. Upon written request, a foster parent or applicant shall have the right to access their complete licensing record, except as provided in subsection (C); and
  2. A foster parent or applicant shall have the right to provide a written response to findings and comments in the home study, investigative reports, and any correspondence, with the exception of the items listed in subsection (C).
- C.** The licensing agency shall not release the following information to a foster parent or applicant:
1. Information supplied by confidential references during the licensing process;
  2. Information protected from secondary dissemination under state or federal law, including investigations and DCS Reports of alleged child abuse or neglect; and
  3. The names of persons and organizations identified as sources in a licensing complaint or DCS investigation or DCS Report of alleged child abuse or neglect.
- D.** A licensing agency shall make a diligent effort to work with an applicant or foster parent. If however, the parties determine they cannot continue to work together, the licensing agency shall assist the foster parent or applicant to find another licensing agency and transfer their licensing record to the new agency under R21-6-215(C).
1. If it is the licensing agency that determines that it cannot work with a foster parent or applicant, the licensing agency shall notify the foster parent or applicant in writing specifically listing the reasons the licensing agency cannot work with the foster parent or applicant and assist the foster parent or applicant to find another licensing agency and transfer their licensing record to the new agency under this subsection (D); or
  2. If the foster parent or applicant does not meet the minimum qualifications for licensure under R21-6-401, the licensing agency shall notify the foster parent or applicant in writing specifically listing the reasons, the applicant or foster parent fail to meet the minimum qualifications.

**R21-6-205. Licensing Agency Responsibility; Application for an Initial Foster Home License**

- A.** When an applicant meets the minimum qualifications specified under R21-6-401, the licensing agency shall provide the assistance needed to submit the application for initial licensure via the Department's electronic database.
- B.** The licensing agency shall ensure that the application for an initial license contains, at minimum, information specified under R21-6-403.
- C.** The licensing agency shall provide OLR with signed verification that the applicant has provided proof of income and resources and:
1. Criminal record self-disclosure for each adult household member;
  2. Valid Level One fingerprint clearance cards for each adult household member, as necessary; specified in A.R.S. § 8-509;
  3. Health self-disclosure completed by each adult household member;
  4. Physician's statement for the foster parent, applicant, and any other adult household member who will provide care or supervision to the foster child;
  5. Proof or current training in cardiopulmonary resuscitation (CPR) and first aid;
  6. Current immunization record available for each child household member. In accordance with A.R.S. § 8-509(I), the lack of updated or available immunization records will not prohibit licensure, but may be grounds for restricting the license to prevent the placement of infants, young children, and medically complex children;
  7. Valid Arizona driver's license for each household member who transports a foster child, or a transportation plan in place in the absence of a valid Arizona driver's license.
  8. Current registration and insurance card for each vehicle that belongs to a household member and may be used to transport a foster child; and
  9. The Statement of Understanding, as defined under R21-6-101(76).
- D.** The licensing agency shall ensure that the application for an initial license includes the home study and assessment specified under R21-6-206 and the agency signature page.
- E.** The licensing agency shall submit the information required in this Section to the licensing authority no later than 30 days from receipt of all information required by this Section.

**R21-6-206. Licensing Agency Foster Home Study and Assessment**

- A.** The licensing agency shall enter the home study via the Department's electronic database.
- B.** To assess the applicant and write the initial home study, the licensing agency shall:
1. Conduct interviews with each household member, including each child household member, if appropriate to the child's age and developmental level, on at least:
    - a. Two occasions in the applicant's home;
    - b. One occasion with each applicant, individually; and
    - c. One occasion with applicants, jointly, if:



- i. Applicants are married; or
    - ii. Another adult household member is applying for a license or is currently licensed;
  - 2. Complete reference checks as follows:
    - a. Obtain written statements via postal mail, electronic mail, or on the form supplied by OLR, from at least five reference sources identified by the applicant;
    - b. Ensure that no more than two references are from relatives; and
    - c. Make personal contact, either in a face-to-face meeting or via telephone, with at least one of the reference sources identified by the applicant;
  - 3. Provide the applicant with the required forms and information to apply for a Level One fingerprint clearance card;
  - 4. Request Central Registry record checks for each adult household member for Arizona and from each state these individuals resided in during the previous five years;
  - 5. Ensure completion of all required training by the applicant;
  - 6. Ensure the applicant has the proper equipment required by this Chapter, such as age-appropriate beds, for each foster child at the time of placement;
  - 7. Visit the applicant’s home and provide information to help the applicant prepare for the Life Safety Inspection to be conducted by OLR throughout the home and premises;
  - 8. Request a Life Safety Inspection for the applicant’s home and verify any corrections made, if applicable; and
  - 9. Work with each household member to assemble information for self-assessments, using the forms approved by OLR.
- C. The home study shall include a summary of self-assessments, interviews, and observations evaluating the applicant’s fitness for licensure, including:
  - 1. Motivation and expectations for becoming a foster parent;
  - 2. Commitment to the care and supervision of a foster child;
  - 3. Parenting skills and ability to use a reasonable and prudent parenting standard characterized by a careful and sensible parental decisions that maintain the health, safety, and best interests of a foster child while at the same time encouraging the emotional and developmental growth of the child;
  - 4. Daily routine and time available to devote to the care of a foster child;
  - 5. Support network, including friends, neighbors, relatives, and the community;
  - 6. Personal or family problems and the applicant’s success in undergoing rehabilitation and overcoming or coping with these problems, including abuse, neglect, or violence that was:
    - a. Committed by the applicant;
    - b. Committed against the applicant; or
    - c. Witnessed by the applicant;
  - 7. History of substance use or abuse and the applicant’s success in overcoming or coping with these challenges;
  - 8. Medical, physical, and mental health problems and the applicant’s success in overcoming or coping with these problems;
  - 9. Ability to deal with anger, stress, and separation;
  - 10. Personal stability, marital stability, and the stability of the household, as applicable;
  - 11. Stability of residency in Arizona;
  - 12. Significant life events, including but not limited to job separation, divorce, child custody, bankruptcy, or the death of a family member;
  - 13. History of complying with court-ordered child support, if applicable;
  - 14. Attitude toward discipline, discipline of the applicant’s children, and willingness to commit to the Department's discipline policy; and
  - 15. Willingness to share parenting for a foster child with that child’s birth family.
- D. In addition, the home study shall address:
  - 1. Household members’ ability to meet requirements, as described under R21-6-302;
  - 2. The ability of household members to provide a safe and positive home environment for a foster child;
  - 3. The strengths and needs of the applicant; and
  - 4. The applicant’s compliance with licensing requirements as defined in Chapter 6 of this Title.
- E. The home study shall contain a recommendation to issue or deny a license, based on the information available to the licensing agency. A licensing agency shall provide justification for a recommendation to deny a license using specific examples that demonstrate that, in the licensing agency’s professional judgment, the applicant does not meet licensing requirements.
- F. The licensing agency may, at its discretion, provide additional recommendations in the home study to:
  - 1. Limit the terms or conditions of a license; and
  - 2. Certify the applicant to provide specialized services, as described under R21-6-331.

**R21-6-207. Request for Additional Information During Licensing Review**

Prior to making a licensing decision, OLR may, as necessary and appropriate, require the licensing agency to assist to:

- 1. Provide additional documentation to verify compliance with licensing requirements, such as marriage licenses, divorce decrees, child support orders/payments, pay stubs, and bankruptcy documents;



2. Provide additional information if:
  - a. The medical, physical, or mental health needs of a household member could interfere with the care and supervision of a foster child;
  - b. Adults residing outside the household will have frequent or close contact with a foster child; or
  - c. A household member has been charged with or convicted of a crime, even if the specific crime does not preclude the issuance of a Level One fingerprint clearance card;
3. Gather additional information needed to determine the applicant's fitness. This may include:
  - a. Interviewing the applicant.
  - b. Contacting references.
  - c. Verifying information provided in the application or by the licensing agency, and
  - d. Inspecting the applicant's home.

**R21-6-208. Statement of Understanding**

The licensing agency shall review the Statement of Understanding with the foster parent at initial licensing, when a child is placed in the foster parent's care, and at each license renewal thereafter.

**R21-6-209. Verification of Equipment at Time of Placement**

The licensing agency shall verify that all equipment including age appropriate beds, car seats and restraints required by this Chapter are appropriately installed and in place at the time of placement of a foster child.

**R21-6-210. Approval for Additional Placements from Another Child Placing Agency**

The licensing agency shall notify and obtain approval from DCS before a foster parent accepts a child from a Child Placing Agency other than DCS.

**R21-6-211. Life Safety Inspection**

- A. The licensing agency shall inform the applicant or foster parent of the Life Safety Inspection rules specified in Chapter 8 of this Title before requesting an inspection by OLR.
- B. At least 30 days before an inspection is due, the licensing agency shall request a Life Safety Inspection by OLR. The request shall provide correct information on:
  1. The name, address, telephone number, and e-mail of the applicant or foster parent;
  2. The major cross streets or directions for locating the home; and
  3. Contact information for the licensing agency.
- C. The licensing agency shall:
  1. Conduct a preliminary inspection of the applicant's or foster parent's home to assess compliance with Life Safety Inspection rules;
  2. Conduct an annual inspection, using the format approved by OLR, to reinforce the importance of the Life Safety Inspection requirements and to verify ongoing compliance; and
  3. Verify corrections made by the applicant or foster parent in response to violations, as applicable.

**R21-6-212. Training Reporting Update**

- A. The licensing agency shall update the Department's electronic database within seven days of the licensee completing the training required by A.R.S. § 8-509.
- B. OLR may take an adverse licensing action against the licensee, or the Department may take a contract action against the licensing agency, or both, if the licensing agency does not submit the information as required by this Section.

**R21-6-213. Application for Renewal License**

- A. The licensing agency shall assist a foster parent, as needed, in applying for a renewal license via the Department's electronic database.
- B. At least 30 days before the expiration of the license, the licensing agency shall submit the completed application for a renewal license via the Department's electronic database.
- C. The application for a renewal license shall update the information in the Department's electronic database and the previous home study, including:
  1. Training completed by the licensee;
  2. Monitoring visits and safety inspections conducted by the licensing agency;
  3. Corrective action plans implemented since the previous home study and the status of violations that resulted in the need for corrective action, if applicable;
  4. Corrections made by the foster parent in response to violations cited in the Life Safety Inspection conducted by the OLR if applicable;
  5. Complaints and investigations, as described under R21-6-221 and R21-6-418, completed since the previous home study or that are pending completion, if applicable;
  6. Central Registry record checks requested by the licensing agency for each adult household member;
  7. Confirmation of a current, valid Level One fingerprint clearance card for each adult household member;
  8. A summary of significant events and changes occurring since the previous home study, including:
    - a. The foster parent's income, resources, expenses, and debts;
    - b. The health of a household member;
    - c. Household composition; and



- d. The dynamics of the foster parent's family and support network, including changes in roles, interactions, attitudes, and relationships;
- 9. The foster parent's compliance with licensing requirements, as defined in Article 3.
- D. The updated home study shall contain a recommendation to issue, amend, or deny a license, based on the information available to the licensing agency. A licensing agency shall justify a recommendation to deny a license using specific examples that demonstrate that, in the licensing agency's professional judgment, the applicant does not meet the licensing requirements.
- E. The licensing agency may, at its discretion, provide additional recommendations in the home study to limit the terms or conditions of a license, based on the licensing agency's professional judgment.
- F. The licensing agency shall provide OLR with:
  - 1. Criminal record self-disclosure for each adult household member;
  - 2. Physician's statement for the foster parent, completed every two years; and
  - 3. The Statement of Understanding, as defined under R21-6-101(76).

**R21-6-214. Application for License Reinstatement**

- A. "Reinstatement" refers to an action by OLR to reactivate a license that has been expired or closed for less than one year.
- B. The licensing agency shall submit an application for reinstatement using the same process as an application for renewal licensure. As required for a renewal, the application for reinstatement shall include a new home study.

**R21-6-215. The Licensing Record**

- A. The licensing agency shall compile and maintain a licensing record for each applicant or foster parent in accordance with the requirements of OLR.
- B. The licensing record shall contain:
  - 1. All documentation or evidence gathered during the licensing process and throughout the term of the license, including:
    - a. Documentation gathered to complete the application for licensure and the home study;
    - b. Evidence of compliance with licensing requirements specified in this Chapter;
    - c. Dates and details for home visits, contacts, and communication with the applicant or foster parent regarding licensing requirements or the licensing process; and
    - d. Evidence that inspection and due process rights were explained to the applicant or foster parent in accordance with A.R.S. § 41-1009;
  - 2. The home study completed by the licensing agency, as described under R21-6-206, and submitted to the licensing authority via the Department's electronic database; and
  - 3. Requests for or reports demonstrating the completion of Life Safety Inspections for the applicant's home and premises.
- C. Upon written request by the applicant or foster parent, the licensing agency shall forward the complete and original licensing record to another licensing agency for the purpose of facilitating transfer to the receiving licensing agency:
  - 1. Within 30 days of receiving the request, and
  - 2. At no cost to the applicant or licensee.
- D. Upon written request and payment of reasonable duplication and postage fees by the applicant or foster parent, the licensing agency shall forward a copy of the licensing record to an agency or organization for the purpose of assisting a foster parent who is being considered for a private or out-of-state adoptive placement, or a similar purpose.

**R21-6-216. Amending the License**

- A. The licensing agency shall inquire at each contact with the foster parent if there are any circumstances requiring an amendment to the license.
- B. The licensing agency shall request an amendment to modify a license via the Department's electronic database, as specified under R21-6-410.
- C. The licensing agency shall provide the following information to the licensing authority to amend a license:
  - 1. A description of the requested change or changes;
  - 2. Justification for the change or changes, as appropriate;
  - 3. A recommendation by the licensing agency based on the licensing record to issue or deny an amendment to the license; and
  - 4. A recommendation by the licensing agency based on the licensing record to limit the terms or conditions of the license, if applicable.
- D. To change the physical address due to the relocation of the licensee, the licensing agency shall:
  - 1. Conduct a preliminary Life Safety Inspection using the form provided by OLR within seven days of the relocation of the licensee; and
  - 2. Within seven days of the preliminary inspection, submit a request to OLR for a Life Safety Inspection.
- E. To add the name of a spouse due to marriage, the licensing agency shall conduct interviews and assessments to evaluate the spouse's fitness in accordance with licensing requirements. A new spouse shall meet all foster parent licensing requirements in this Chapter, including obtaining a Level One fingerprint clearance card, passing a protective service registries check, and all required pre-service training as prescribed in R21-6-303.

**R21-6-217. Evaluating Changes in Household Composition**

- A.** If there is a change in the household composition, the licensing agency shall evaluate the impact of the change on the dynamics within the home and on the provision of care or supervision to a foster child.
- B.** When a household member is added during the term of the license, the licensing agency shall:
1. Obtain from each new adult household member:
    - a. Information and consents needed to conduct background checks with the Central Registry in Arizona and, if applicable, with the registries in other states the household member has lived in during the previous five years;
    - b. A criminal record self-disclosure;
    - c. Verification that the household member possesses a valid fingerprint clearance card that meets Level One requirements;
    - d. A completed health self-disclosure; and
    - e. A Physician's Statement if providing care for a foster child;
  2. Request a current immunization record for a new child household member;
  3. Conduct interviews, gather required documents, and make observations to evaluate the new household member, including:
    - a. The length of time the foster parent has known the new household member;
    - b. The background of the new household member, including any criminal history and allegations of child abuse or neglect;
    - c. Financial arrangements, if any, between the foster parent and the new household member;
    - d. The role of the new household member in the care and supervision of a foster child;
    - e. Changes in sleeping arrangements;
    - f. Whether the new household member presents a risk to the health, safety, or well-being of a foster child; and
    - g. Whether licensing requirements continue to be met with the addition of the new household member;
  4. Enter information required by this rule via the Department's electronic database within 15 calendar days of receiving notification from a foster parent regarding a new household member;
  5. Use professional judgment in making a recommendation to OLR on the need for an adverse licensing action in response to the new household member;
  6. The licensing agency shall inform the foster parent that a household member's failure to meet requirements specified in Chapter 6, may constitute grounds for an adverse licensing action.

**R21-6-218. Routine Monitoring and Verification of Ongoing Compliance**

- A.** At least once every three months, the licensing agency shall conduct assessments, monitoring, on-site visits, and make copies of required documents, as needed, to verify information and maintain a record of ongoing compliance by the foster parent. Inspection and monitoring activities of the licensing agency shall include, as applicable:
1. A review of records and reports maintained by the foster parent on the care, services, and treatment provided to the foster child;
  2. Interviews with household members;
  3. Interviews with foster children; and
  4. An inspection of the home, premises, and vehicles used to transport foster children.
- B.** At least one monitoring visit per year shall be unannounced.
- C.** At the time of each monitoring or inspection, the licensing agency shall provide the applicant or foster parent with:
1. A written summary of the monitoring or inspection;
  2. Planned follow-up and required corrective actions, as applicable; and
  3. A written summary of the applicant's or foster parent's rights, in accordance with A.R.S. § 41-1009.
- D.** The licensing agency shall keep a copy of the written summaries specified in subsection (C) and make the summaries available to OLR upon request.

**R21-6-219. Corrective Action Plans**

- A.** The licensing agency shall cooperate with OLR and monitor compliance with a corrective action plan to remedy the violation of a licensing requirement.
- B.** The corrective action plan shall:
1. Be written by OLR in consultation with the licensing agency.
  2. Specify the rule violated by the licensee.
  3. Specify the steps a foster parent must take to remedy a violation, and
  4. Specify a date for completion of the required corrective action.
- C.** The licensing agency or OLR may, based on their professional judgment, conduct unannounced monitoring visits to verify the implementation or completion of corrective action.

**R21-6-220. Notification Requirements; Unusual Incident**

- A.** The licensing agency shall notify OLR and the Child Placing Agency of any issues arising under R21-6-326.
- B.** Within 48 hours of the occurrence of an incident specified in R21-6-326, the licensing agency shall provide in writing to OLR and the Child Placing Agency:
1. A description of the incident, including the place, date, and time of occurrence;
  2. The names and contact information for any persons involved in the incident;



- 3. The measures taken by the foster parent to address, correct, or resolve the incident; and
- 4. The action taken by the licensing agency in response to the incident, if applicable.

**R21-6-221. Allegations of Child Abuse or Neglect; Licensing Complaints**

- A.** The licensing agency shall notify OLR in writing of each licensing complaint and each investigation initiated by the Department or law enforcement within 24 hours of the licensing agency becoming aware of the complaint or investigation, unless original notification came from OLR. This notification shall include the:
  - 1. Date and place of the incident;
  - 2. Nature of the complaint or allegation; and
  - 3. Names of all persons involved in the allegation.
- B.** The licensing agency shall conduct an inquiry into each licensing complaint or concern. Within 45 days of being notified of a licensing complaint or concern, the licensing agency shall submit a written report of the licensing inquiry to OLR and to the licensee, in accordance with due process rights and subject to R21-6-418, unless OLR grants an extension in writing. The report of the licensing inquiry shall include:
  - 1. The scope of the inquiry, including a list of persons interviewed and a list of the documentation reviewed;
  - 2. The validity of allegations and other findings related to licensing violations; and
  - 3. Recommendations by the licensing agency regarding follow-up action.
- C.** The licensing agency shall not interfere with, and shall assist, as requested, law enforcement or the Department's Child Safety Workers, and OCWI Investigators in conducting investigations of child abuse or neglect.
- D.** OLR may, if necessary and appropriate, conduct an inquiry or investigation independent of or in conjunction with the licensing agency, law enforcement, or the Department's Child Safety Workers or OCWI Investigators.

**R21-6-222. Waiver of Non-Safety Licensing Requirements for Kinship Care**

- A.** When submitting an application for an initial, renewal, or amended license, the licensing agency may recommend the waiver of a non-safety licensing requirement for an applicant or foster parent who will be providing only kinship care, as defined under R21-6-101(36) if compliance with the non-safety requirement would be a hardship on the applicant or foster parent. The recommendation for a waiver shall include:
  - 1. The specific rule to be considered for waiver by the OLR;
  - 2. The reason compliance would be a hardship;
  - 3. Any proposed alternative compliance with the rule requirement, including pictures or diagrams that depict any physical requirement to be waived; and
  - 4. Justification that waiving the licensing requirement will not compromise the safety of a foster child.
- B.** The licensing agency shall submit the waiver request only on forms supplied by OLR.
- C.** OLR shall consider the waiver of a non-safety licensing requirement on a case-by-case basis.
- D.** An applicant or foster parent shall base a waiver request on a licensing requirement and the needs of the foster child. OLR shall not grant a waiver request because it would be inconvenient for the foster parent or applicant to comply with a licensing requirement.

**ARTICLE 3. LICENSING REQUIREMENTS FOR FOSTER PARENTS**

**R21-6-301. General Requirements for Foster Parents**

- A.** A foster parent shall:
  - 1. Be 21 years of age or older;
  - 2. Reside in Arizona and be lawfully present in the United States;
    - a. Each applicant shall present one of the documents specified under A.R.S. § 41-1080(A) and, as applicable, (E), to the licensing agency to demonstrate that the applicant is lawfully present in the United States; and
    - b. If an alien applicant has only temporary authorization to be present in the United States, the applicant shall provide documentation indicating that the authorization is valid for a minimum of one year or that the applicant has already taken steps to obtain authorization to remain for at least one year.
  - 3. Live in a home in which all adult household members pass a background check based on:
    - a. A Central Registry check in Arizona and in the registries in other states the applicant has lived in during the previous five years.
    - b. A completed and notarized criminal record self-disclosure, and
    - c. A valid Level One fingerprint clearance card from the Arizona Department of Public Safety (DPS).
  - 4. Be of reputable and honest character. A licensing agency shall verify compliance by evaluating information provided by the applicant and information obtained through background checks, references, interviews, and records of the Department;
  - 5. Live in a home in which all household members are free of medical, physical, or mental health conditions that would interfere with the safe care and supervision for a foster child.
    - a. The applicant shall demonstrate compliance by providing his or her licensing agency with:
      - i. A health self-disclosure completed by all adult household members before initial licensure, and at each renewal thereafter;
      - ii. A physician's statement for the applicant completed no more than 12 months before the license application is submitted via the Department's electronic database and at least every two years thereafter; and





plete or inaccurate information.

- F.** Failure by a household member to pass a protective services registries background check, to obtain a fingerprint clearance card, or to cooperate with the licensing process may result in an adverse licensing action.

**R21-6-303. Training Requirements**

- A.** Before OLR issues an initial license, the applicant shall complete and submit evidence of completion of:
  - 1. The minimum number of hours of training required by A.R.S. § 8-509;
  - 2. The training curriculum approved by the Department, which includes training in how to exercise the reasonable and prudent parenting standard;
  - 3. CPR training, which requires the demonstration of CPR skills, and is taught by an instructor certified by a nationally recognized association such as the American Red Cross, the American Heart Association, or the National Safety Council; and
  - 4. First aid training, taught by:
    - a. An instructor certified to teach first aid that conforms to the requirements of a nationally recognized association such as the American Red Cross or the National Safety Council; or
    - b. A doctor of medicine, physician assistant, registered nurse, paramedic, or emergency medical technician who has a current license or certification to practice.
- B.** After initial licensure as required by A.R.S. § 8-509 the foster parent shall:
  - 1. In addition to CPR certification and first aid training complete a minimum of six hours of training on topics relevant to the health, growth, development, or welfare of a child, or as recommended by OLR, the licensing agency, or the Child Placing Agency;
  - 2. Present evidence of current CPR certification that meets the standards specified in subsection (A)(3); and
  - 3. Present evidence of current first aid training that meets the standards specified in subsection (A)(4).
- C.** The applicant or foster parent shall complete additional training required by the Department, licensing agency, or Child Placing Agency based on the specific needs of the foster parent or of a foster child.
- D.** OLR may waive the requirements for CPR and first aid training if the foster parent has current certification or licensure as a doctor of medicine, physician assistant, registered nurse, paramedic, or emergency medical technician.
- E.** OLR may waive the requirement for CPR training if an applicant or foster parent has a physical limitation preventing them from performing CPR, unless the applicant or foster parent demonstrates that he or she can perform CPR with tools or devices designed for that purpose. A signed physician’s statement shall document the limitation. OLR may, at its discretion, restrict the license of such a foster parent to a specific foster child or population.

**R21-6-304. Life Safety Inspection**

- A.** A foster parent is responsible for ensuring compliance with the Life Safety Inspection rules specified in Chapter 8 of this Title.
- B.** An applicant and foster parent shall cooperate with OLR and the licensing agency when performing the Life Safety Inspection.
- C.** OLR shall:
  - 1. Conduct a full inspection to verify compliance with Life Safety Inspection rules:
    - a. Before an initial license is issued,
    - b. Before an amended license is issued for a new location, and
    - c. At least every two years;
  - 2. Conduct an inspection to verify compliance with specific Life Safety Inspection rules following notification of significant structural modifications to a home or the addition of a pool, as defined by R21-6-101(59); and
  - 3. Permit and encourage the applicant or licensee to make necessary corrections at the time of an inspection. For corrections that cannot be made immediately, the inspector shall explain how OLR or the licensing agency will verify corrections at a later date.

**R21-6-305. Nurturing Responsibilities**

- A.** foster parent shall nurture a foster child by:
  - 1. Providing the child with opportunities to develop emotionally, socially, culturally, physically, and educationally, as appropriate to the child’s skill and developmental level;
  - 2. Helping the child develop a positive identity by respecting the child’s race, ethnicity, religion, gender, culture, and sexual orientation;
  - 3. Providing the child with opportunities to make choices and to express preferences appropriate to the child’s age and developmental level;
  - 4. Providing the child with a variety of safe and developmentally appropriate play equipment, toys, and recreational supplies;
  - 5. Practicing positive discipline;
  - 6. Assisting the child with day-to-day concerns;
  - 7. Providing the child with assistance, comfort, and emotional support to ease the distress associated with coming into care and with related transitions;
  - 8. Assisting in maintaining the child’s connection to their family, friends, community, and culture; and



9. Providing opportunities for the child to contact family members by means of face-to-face contact, mail, telephone, or other modes of communication, unless otherwise directed by the Child Placing Agency.

**R21-6-306. Supervisory Responsibilities**

- A.** A foster parent shall commit the time necessary to provide each foster child with care and supervision in accordance with licensing requirements and based on the child's age, developmental level, and maturity.
- B.** A foster parent shall implement the alternative supervision plan, as prescribed by R21-6-331, or R21-6-332 as applicable, if the foster parent must leave any of the following foster children in the care of another person:
  1. Medically complex child,
  2. Child receiving therapeutic foster care, or
  3. Child diagnosed with a developmental disability.
- C.** For routine child care of a foster child or unless prescribed in subsection (B), a foster parent shall have arrangements approved by the Child Placing Agency and the licensing agency. For the purpose of this subsection, "routine care" refers to care that is recurrent and predictable, including preschool, after school care, or care that allows the foster parent to attend recurring activities.
- D.** Except as prescribed in subsections (B) and (C), a foster parent may independently select an adult to provide short-term care or supervision that is not routine. For the purpose of this Section, "short-term" means a time period that does not exceed 24 hours in a nonemergency and does not exceed 72 hours in an emergency.
  1. A foster parent shall use careful and sensible judgment in selecting an adult to provide short-term care or supervision for a foster child and shall ensure that the adult has the ability to meet the specific needs of a foster child.
  2. Before leaving a foster child with an adult to provide short-term care or supervision, a foster parent shall provide the adult with:
    - a. Information about the child's behavioral health, medical, or physical condition that is necessary for the adult to provide care;
    - b. Medication prescribed to be administered to the child, and any relevant instructions for the administration of the medication; and
    - c. Emergency information for contacting the child's physician, the Child Placing Agency, the licensing agency, and the foster parent.
  3. The foster parent shall notify the licensing agency and obtain approval from the Child Placing Agency before the short-term care exceeds:
    - a. Twenty-four hours in a nonemergency situation. Examples of a nonemergency situation include going out to dinner, running errands, grocery shopping, and participation in a special training activity.
    - b. Seventy-two hours in an emergency situation. Examples of an emergency situation include a death in the family, serious illness of a family member, and foster parent illness.
- E.** A foster parent shall use careful and sensible judgment:
  1. To protect each foster child from harm and teach the foster child to manage risks as permitted by the child's age, developmental level, and maturity; and
  2. In determining when additional help or support is needed to ensure the health, well-being, and educational needs of a foster child.

**R21-6-307. Reasonable and Prudent Parenting Standard**

- A.** A foster parent shall use a reasonable and prudent parenting standard to promote normalcy for children in his or her care by encouraging participation in age or developmentally appropriate activities to the greatest extent possible.
- B.** Such activities may include giving permission for a foster child to:
  1. Spend time alone or with friends;
  2. Participate in clubs or extracurricular activities, or on teams; and
  3. Attend birthday parties with friends or sleep-overs.
- C.** A foster parent's exercise of the reasonable and prudent parenting standard, shall not conflict with any appropriate court order or case plan.

**R21-6-308. Positive Discipline**

- A.** A foster parent shall:
  1. Provide positive discipline that is appropriate to the age, life experience, and developmental level of a foster child;
  2. Establish well-defined and clearly communicated rules that set the limits of behavior;
  3. Develop and implement reasonable, developmentally appropriate, and consistent rewards and consequences;
  4. Use disciplinary methods that help a foster child build self-control, self-reliance, and self-esteem;
  5. Inform the Child Placing Agency and the licensing agency of behaviors displayed by the foster child that endanger the health, safety, or well-being of the child or others; and
  6. Abide by Department policy and rule related to positive discipline and prohibited practices under subsection (B).
- B.** A foster parent shall not use or threaten to use, or engage in and shall not permit any other person to use or engage in, the following or similar punishment or maltreatment of a foster child:
  1. Any form of physical punishment, including hitting, spanking, biting, pinching, shaking, slapping, smacking, punching, or kicking;
  2. Deprivation of essential nutrition, clothing, bedding, shelter, medical care, or sleep;



- 3. Force-feeding, except as prescribed by a licensed medical professional;
  - 4. Locked confinement in a room or small area;
  - 5. A consequence that requires a foster child to remain silent or motionless or to be isolated for a time period that is not developmentally appropriate;
  - 6. Mechanical restraint. A mechanical restraint is an article, device, or garment that:
    - a. Restricts a foster child’s mobility, freedom of movement, or the movement of a portion of a child's body;
    - b. Cannot be removed by the foster child; but
    - c. Does not include an orthopedic, surgical, or medical device that allows a foster child to heal from a medical condition or to participate in a treatment program.
  - 7. Humiliation, verbal abuse, or profane language targeting a foster child;
  - 8. Derogatory remarks about the foster child, the child’s identity, or about a person who is significant to the child;
  - 9. Threats to remove the foster child from the home;
  - 10. Cruel, severe, deprived, humiliating, or frightening actions or statements;
  - 11. Noxious stimuli as a consequence, including putting soap, vinegar, or hot sauce into a foster child’s mouth;
  - 12. Denial of a foster child visitation or communication with the child’s birth family members or with a significant person when such denial is not approved by the Child Safety Worker, the Child Safety Worker’s supervisor, or ordered by the Court; or
  - 13. Over-the-counter or prescription medication for the purpose of restraining or sedating a foster child without a physician’s order.
- C.** A foster parent shall notify the Child Placing Agency and the licensing agency within 24 hours of a physician ordering a medication for the purpose of behavior management.
- D.** The use of physical restraint of a foster child is prohibited except to protect a foster child, foster parent, or another person from imminent physical harm resulting from a foster child’s sudden, out-of-control behavior.
- 1. Only a foster parent specifically trained in crisis intervention may use physical restraint on a foster child.
  - 2. No person shall use physical restraint for the purposes of discipline or convenience.
  - 3. A trained foster parent shall administer physical restraint in the least restrictive manner possible to protect the child or others and cease when the child becomes calm.
  - 4. A foster parent shall notify the Child Placing Agency and the licensing agency within 24 hours of the use of physical restraint as required by R21-6-326.

**R21-6-309. Capacity Requirements**

- A.** The maximum capacity of a license shall not exceed five foster children, and may be restricted to fewer than five, if the foster home provides special services under R21-6-331 or an increase is not justified under subsection (F).
- B.** The total number of children in a foster home at one time, including the children of the foster parent and the children of a household member, shall not exceed eight.
- C.** Subject to subsection (F), OLR may permit an applicant or licensee to exceed the maximum number of children in the home:
- 1. To keep a sibling group together, if approved in writing by the DCS Director’s office or designee;
  - 2. If the total number of foster children exceed five and the additional requirements specified in R21-6-331 are met for a Group Foster Home; or
  - 3. If the children living in the applicant or licensee’s home would exceed eight, including any foster children, and the applicant or licensee meets the requirements of subsection (F);
  - 4. To keep a foster child in the home as of the effective date of this Section.
- D.** The total number of children in the foster home at one time, including the children of the foster parent and any household member, any child placed for respite care, child care services, or babysitting shall not exceed:
- 1. Four who are five years of age or younger in the care of one adult; and
  - 2. Two who are less than one year of age in the care of one adult.
- E.** OLR may permit the licensee to exceed the age limits of children in the foster home, as specified in subsection (D), to accommodate multiple birth siblings.
- F.** Recommendations of the licensing agency and decisions of OLR to establish or increase the capacity of a foster home or to exceed the limits as indicated in subsections (B) and (C), shall be justified by:
- 1. Adequate sleeping arrangements (as specified by R21-6-310 and R21-6-311),
  - 2. The support network available to the foster parent, and
  - 3. The licensee’s willingness and ability to provide care for each additional foster child.
- G.** A foster parent is limited to the capacity, age, gender, and other conditions or restrictions specified on the license when providing care, including respite care.

**R21-6-310. Sleeping Arrangements**

- A.** The sleeping arrangement for each foster child shall be safe and appropriate, based on the child’s age, gender, special needs, behavior, and history of abuse or neglect.
- B.** A foster parent shall ensure compliance with the following sleeping arrangements:
- 1. A foster child shall not share a bedroom with an adult, with the following exceptions:
    - a. A foster child less than the age of three years may share a bedroom with a foster parent.



- b. A foster child age three years and older may share a bedroom with a foster parent when:
  - i. The child temporarily needs the attention of the foster parent during sleeping hours, or
  - ii. The sleeping arrangement and the reason for it are approved by the Child Placing Agency.
- c. A foster child who has regularly shared a bedroom with another child who has turned 18 years of age may continue to share the bedroom unless the Child Placing Agency determines that the arrangement is contrary to the best interests of the foster child.
- 2. Any child in the home, aged six years and older, shall not share a bedroom with a foster child of the opposite gender, except as permitted by subsection (C).
- C. A foster child, aged six years and older, may share a bedroom with a sibling of the opposite gender:
  - 1. When the Child Placing Agency grants written approval for the purpose of facilitating a smooth transition for a child into the foster home:
    - a. The Child Placing Agency shall limit such approval to the first 60 days of placement; unless
    - b. The Child Placing Agency makes a written finding after 60 days and annually thereafter that is consistent with the case plan of all siblings sharing the bedroom and it is in the best interest of all of the siblings to continue to share the bedroom;
  - 2. When there are no safety issues, such as that listed in subsection (C)(3)(a) and
  - 3. The Child Placing Agency shall not grant approval:
    - a. If either child has a history of sexual abuse, or
    - b. Solely for the convenience of the foster parent.
- D. A foster child who is a minor parent may share a bedroom with his or her child.

**R21-6-311. Bedrooms, Beds, and Bedding**

- A. The placement of a foster child shall not displace another foster child or a household member from a bedroom to a space unrelated to sleeping.
- B. A foster parent shall provide a foster child with a bedroom that accommodates the privacy and safety needs of the child and that is a finished room demonstrated by:
  - 1. Floor-to-ceiling walls.
  - 2. A door with a working doorknob or latch.
  - 3. Lighting.
  - 4. Ventilation.
  - 5. Appropriate heating and cooling, and
  - 6. A window or door that opens directly to the outdoors and is accessible for emergency evacuation.
- C. A foster parent shall not use a space used as a closet, passageway, or primarily for purposes unrelated to sleeping as a bedroom for a foster child.
- D. The bedroom for a foster child shall be large enough to accommodate a bed, furniture to store and display personal belongings, and space for the child to dress and move about.
- E. A foster parent shall provide each foster child with a bed that is safe and appropriate based on the child's age and special needs. For the purpose of this Section, "bed" does not include sleeper sofas, rollaway beds, couches, cots, portable crib such as Pack 'n Play, sleeping bags, or mats, unless approved by OLR on a temporary basis not to exceed six days.
  - 1. A foster parent shall ensure that:
    - a. Each foster child is provided with a separate bed or crib, as appropriate;
    - b. A foster child less than the age of three years does not sleep on a waterbed; and
    - c. A foster child does not sleep on the top tier of a bunk bed or similar style bed in which the top of the mattress is elevated four or more feet above the floor, if the child:
      - i. Is less than the age of six years.
      - ii. Has a disability that limits mobility, or
      - iii. Has a seizure disorder.
  - 2. A foster parent may:
    - a. Provide a foster child with a used mattress if the mattress is sanitary; and
    - b. Allow a foster child not identified by subsection (E)(1)(c) to sleep in a bunk bed or similar style bed in which the top of the mattress is elevated four or more feet above the floor, if:
      - i. The top bunk is securely fastened to the side frames;
      - ii. The top bunk has guard-rails that extend at least five inches above the mattress surface to prevent a child from rolling off;
      - iii. The top bunk has cross ties or other secure structures under the mattress foundation to prevent the mattress from falling through the frame;
      - iv. The distance between the two beds or between the top bunk and the ceiling is sufficient to allow the child to sit upright while in bed; and
      - v. The bunk bed does not exceed two tiers.
- F. A foster parent providing respite care for a foster child may use a sleeper sofa, rollaway bed, couch, cot, portable crib such as a Pack 'n Play, sleeping bag, or mat as an acceptable sleeping accommodation provided that:
  - 1. The respite care does not exceed 14 consecutive days, and



2. The accommodation does not compromise the health or safety of the child.

**G.** Except as provided in subsection (H), bedding for a foster child shall be clean and shall include:

- 1. A pillow;
- 2. Bottom or fitted sheet;
- 3. A top sheet, blanket, or cover, as appropriate; and
- 4. A waterproof mattress cover, as needed.

**H.** Bedding for infants shall be clean and shall not include pillows, blankets, bumper pads, or other soft items or surfaces.

**R21-6-312. Meals and Nutritional Needs**

A foster parent shall:

- 1. Encourage a foster child to participate in meals as a member of the family;
- 2. Provide a foster child with a well-balanced and nutritionally adequate diet; and
- 3. Provide for the special dietary needs of a foster child, as determined by a medical or nutritional authority or as is customary in the child’s religion or culture.

**R21-6-313. Hygiene and Daily Needs**

The foster parent shall provide a foster child with:

- 1. Clean clothing and shoes that are in good repair and appropriate to the child’s age, size, developmental level, gender, gender identity, the weather conditions, and the occasion;
- 2. The supplies, instruction, and assistance needed to care for the child’s hygiene, including tooth brushing, bathing, hair care, using the toilet, hand washing, diapering, menstrual care, and shaving, as appropriate; and
- 3. Privacy while dressing, bathing, and during the care of other personal needs, as developmentally appropriate.

**R21-6-314. Health and Medical Care**

The foster parent shall protect and care for the health and well-being of a foster child and:

- 1. Provide necessary first aid and care to treat common childhood ailments and injuries;
- 2. Obtain 10 well-child visits for each child aged from birth to two years as described in subsections (a)-(h) below. A well child visit includes both a medical and vision examination as appropriate to the child’s age. A foster parent shall obtain a well-child visit when a foster child is the following ages:
  - a. Three to five days;
  - b. One month;
  - c. Two months;
  - d. Four months;
  - e. Six months;
  - f. Nine months;
  - g. Twelve months; and
  - h. Fifteen Months;
- 3. Obtain an annual well-child visit for each child older than two years of age.
- 4. Obtain routine dental examinations for each foster child older than one year of age at least once every six months and more frequently as needed for other services, such as filling cavities and orthodontics;
- 5. Review the child’s medical, vision, and dental records if available; and if the foster child has not had a medical, vision, or dental exam within the past year, the foster parent shall schedule the child for an exam within two weeks after the foster child is placed with the foster parent;
- 6. Obtain necessary care and treatment for medical, vision, dental, behavioral health, and other services identified in the placement agreement specified under R21-6-314;
- 7. Obtain immunizations based on the current recommended immunization schedule published by the Centers for Disease Control and Prevention, unless specified otherwise in the care plan for the foster child;
- 8. Administer prescription medication only as prescribed and ensure no lapse occurs in the administration of the prescription medication to the foster child;
- 9. Carry out the written and verbal instructions from qualified professionals regarding the medical, vision, dental, and therapeutic needs of the foster child and notify the Child Placing Agency when written and verbal instructions from multiple medical professionals conflict; and
- 10. Ensure that a foster child, 12 months of age and younger, is placed to sleep on the foster child’s back to reduce the risk of Sudden Infant Death Syndrome (SIDS), unless otherwise authorized in writing by the child’s physician.

**R21-6-315. Smoking Restrictions**

To reduce the risk of secondhand smoke, the foster parent shall ensure that smoking any substance, including tobacco, e-cigarettes, and prescribed marijuana through any delivery system, is prohibited and does not occur at any time in the foster home, or at any time when a foster child is present in a vehicle used to transport a foster child.

**R21-6-316. Transportation Responsibilities**

- A.** A foster parent shall provide or arrange appropriate local transportation to meet the routine educational, medical, recreational, social, religious, and therapeutic needs of a foster child.
- B.** When a foster child is transported by or at the direction of a foster parent, the foster parent shall ensure that the vehicle,



at a minimum:

1. Is maintained in safe operating condition;
2. Is properly licensed, registered, and has liability insurance; and
3. Has passenger safety restraints available and:
  - a. Each foster child less than the age of five years or weighing less than 40 pounds is properly secured in a child car seat and child restraint system that is appropriate to the height, weight, and physical condition of the child;
  - b. Each foster child five to eight years of age who weighs more than 40 pounds, but is less than four feet nine inches in height is properly secured in a child restraint system that is appropriate to the height, weight, and physical condition of the child;
  - c. Each foster child not covered by subsections (a) and (b) is properly secured with a seat belt;
  - d. Each foster child with a disability that prevents the child from maintaining head and torso control while sitting is secured in a car bed, harness, or other device designed to protect the child during transportation; and
  - e. If a foster child is transported in a wheelchair, the child is properly secured with a floor-mounted seat belt, and the wheelchair is properly immobilized using lock-down devices.
- C. A foster parent shall not leave a foster child unattended during transportation if the child:
  - a. Is less than seven years of age;
  - b. Has a developmental disability; and
  - c. Is more than seven years of age and that the child is physically and emotionally incapable of traveling alone;
- D. The Child Placing Agency shall ensure that the foster parent has all of the equipment in place and properly installed to meet the requirements of subsection (B) prior to placement.
- E. A foster parent shall ensure the following safety requirements for drivers selected by the foster parent to transport a foster child:
  1. The driver has a valid driver license; and
  2. The driver practices safe, defensive driving and obeys all traffic laws.
- F. A child shall not be transported in a truck bed, cargo area, camper, or in a trailer attached to a motor vehicle.

#### **R21-6-317. Education and Development**

The foster parent shall:

1. Communicate developmental and educational progress and challenges to the Child Safety Worker or Child Placing Agency, including any noted developmental delays;
2. Send a school-age foster child to public school unless alternative educational arrangements, such as private or home schooling, have been approved in the child's case plan, by the Child Safety Worker's supervisor, or the Child Placing Agency supervisor;
3. Work with the Child Safety Worker or Child Placing Agency to determine educational needs beyond those provided in the school setting and make reasonable efforts to obtain these educational services that are available from the school, district, or other providers for education services;
4. Encourage the foster child's academic progress by making reasonable efforts to ensure the completion of homework and participating in parent-teacher conferences, the Individualized Education Program (IEP), and Individualized Family Service Plan (IFSP) Meetings, as appropriate; and
5. Make reasonable effort to:
  - a. Ensure school attendance; and
  - b. Schedule appointments, visitations, and other activities during hours that do not interfere with school.

#### **R21-6-318. Religious and Cultural Practices**

A. The foster parent shall:

1. Protect and support a foster child's right to participate in the child's religious and cultural practices.
2. Coordinate with the licensing agency or Child Placing Agency, to provide opportunities for a foster child's participation in the child's religious and cultural activities, and
3. Not compel a foster child to participate in the foster parent's religious or cultural activities if it is contrary to the child's cultural or religious practices or the wishes of the child's birth parent.

B. If there is a conflict between the religious or cultural practices of a foster parent and a foster child, the foster parent shall notify the licensing agency, which shall notify the Child Placing Agency, so that alternative arrangements may be made.

#### **R21-6-319. Recreation**

The foster parent shall:

1. Encourage a foster child to participate in appropriate indoor and outdoor recreation;
2. Provide adequate supervision, protection, and guidance during the use of recreational equipment, including swimming pools;
3. Ensure that the use of recreational equipment is in accordance with manufacturers' guidelines; and
4. Promote the foster child's use of appropriate safety gear for recreational activities.

#### **R21-6-320. Out-of-State Travel**

Before taking a foster child out of Arizona for more than seven consecutive days, a foster parent shall notify the licensing agency and Child Safety Worker of the destination and dates of travel.



**R21-6-321. Rights of a Foster Child**

- A.** A foster parent shall ensure that the rights of a foster child as listed in A.R.S. § 8-529 are protected and upheld. In addition, a foster child has the right to:
  - 1. Live in a safe, clean, and humane environment;
  - 2. Be free to express their gender identity and sexual orientation;
  - 3. Be free from physical, sexual, emotional, or other abuse;
  - 4. Be treated with dignity and respect by foster parents and household members;
  - 5. Protection from exploitation and to learn the skills needed to protect him or herself from exploitation;
  - 6. Protection for and access to his or her adaptive aids, if applicable;
  - 7. Retain personal belongings when moving from the foster home, including usable clothing, furniture, electronic equipment, bicycles, toys, and other items purchased specifically for or given to the child;
  - 8. Access his or her personal spending money, unless access is limited by the Child Placing Agency as part of a documented plan approved by the Child Placing Agency such as a plan to protect the child from exploitation or a pattern of misuse;
  - 9. Be taught how to manage personal spending money;
  - 10. Assume responsibility for some household duties in accordance with the child’s age, health, and ability; assigned responsibilities and tasks shall not deprive the child of school, sleep, reasonable play time, or study periods;
  - 11. Participate in activities as a member of the family, including meals, outings, and celebrations;
  - 12. Participate in extracurricular, enrichment, social, and community activities, including sports, school activities, cultural programs, and religious groups based on a reasonable and prudent parenting standard. This participation may be restricted by reasonable curfew, cost considerations, a court order, or as agreed upon by the foster parent and the Child Placing Agency;
  - 13. Be encouraged to have contact with and visit family members, consistent with the case plan, unless prohibited by court order;
  - 14. Have visitors, within reasonable boundaries established by the foster parent, and unless prohibited by court order;
  - 15. Confidential communication with his or her Child Safety Worker or Child Placing Agency, advocates, attorney, guardian ad litem, and guardian; and
  - 16. Express dissatisfaction with or file a complaint against a foster parent or the Child Placing Agency without retaliation.
- B.** A foster child over the age of puberty, or as early as can be reasonably expressed by the child, shall have the right to specify the gender of the person to assist the child with personal care, if needed and appropriate.
- C.** A foster child with a disability has the right to participate in typical daily activities with the least amount of physical assistance necessary to accomplish the task and to live in a home adapted to protect the child and to assist the child in experiencing developmentally appropriate independence.
- D.** If a foster parent is not able to protect or uphold one or more of the above rights, the foster parent shall immediately notify the Child Placing Agency and the licensing agency so that alternative arrangements or assistance may be made to protect the rights of the child.

**R21-6-322. Confidential Information**

- A.** A foster parent shall protect and maintain the confidentiality of a foster child, by protecting and safeguarding all personally identifiable information about a foster child and his or her family.
- B.** Information related to the reason for a foster child’s placement or related to a foster child’s family is considered confidential information, under A.R.S. § 8-807 and A.R.S. § 8-502.
- C.** A foster parent may only share a child’s confidential information strictly on a need-to-know basis:
  - 1. With health care providers, schools, child care providers, and legal representatives, as appropriate; or
  - 2. As authorized by the Child Placing Agency or guardian.
- D.** A foster parent shall not share information or photos that identify a child as a foster child on the internet, including social media.
- E.** A foster parent shall not share a foster child’s information or photos that identify the child as a foster child, unless there is a need to know, with other individuals or organizations, including friends, co-workers, relatives, and neighbors.
- F.** A foster parent shall safeguard and maintain a foster child’s records in a manner that prevents loss, tampering, or unauthorized access or use.
- G.** Failure to keep confidential a foster child’s records or information may result in an adverse licensing action.

**R21-6-323. Information and Records to Be Provided to the Foster Parent**

- A.** The Child Placing Agency shall provide a foster parent with the following documents and information, to the extent that this information is available for each foster child within 30 days:
  - 1. The insurance card or insurance identification number and written consent authorizing the foster parent to access medical records and obtain routine, nonsurgical, and emergency medical care for the child;
  - 2. A summary of the child’s medical history and the name of the child’s last known physician;
  - 3. A summary of the child’s education history and the name of the school most recently attended by the child;
  - 4. A summary of the child’s social history;
  - 5. Restrictions or limitations to the sharing of confidential and personally identifiable information about the child;



6. Information about the child's behavioral health, medical, or physical condition that is necessary or beneficial to provide quality care;
  7. Medication that is prescribed to be administered to the child, and any relevant instructions for the administration of the medication;
  8. The religious and cultural beliefs and preferences of the child and of the child's birth family;
  9. Emergency contact information for the child, including a means to contact the Child Placing Agency;
  10. Placement packets from prior placements, if applicable;
  11. A copy of the child's case plan; and
  12. A placement agreement that specifies the following:
    - a. Requirements and restrictions related to the child's diet, personal care, and activities;
    - b. Requirements and restrictions related to the supervision of the child;
    - c. Requirements and restrictions for interaction with the child's family and other persons;
    - d. The person responsible for obtaining and transporting the child to needed services. These services include medical care, vision care, dental care, counseling, and other services or treatment;
    - e. A plan for the purchase, installation, and maintenance of environmental modifications to accommodate the disabilities of a child, if applicable; and
    - f. A plan for the completion of training needed by the foster parent to care for the special needs of the child, if applicable.
- B.** A foster parent shall sign and abide by the placement agreement, described in subsection (A)(12).
- C.** A foster parent shall maintain and store the foster child's records from DCS in a secure place.
- D.** The foster parent shall not use the information obtained to initiate discussions of the child's history or experience of abuse or neglect with the child.

**R21-6-324. Records Maintained by the Foster Parent**

- A.** A foster parent shall maintain a record throughout the care of the foster child of:
1. Each foster child's contact with family members and other significant persons; and
  2. Educational, medical, vision, dental, or therapeutic care provided to the foster child while living in the home.
- B.** At the discretion of the Department or the licensing agency, a foster parent shall, when requested, provide proof of how the funds designated for a foster child were expended.
- C.** A foster parent shall safeguard a foster child's records to prevent loss, tampering, and unauthorized access.
- D.** A foster parent shall collect and maintain information and materials significant to a foster child's personal history. The collection is sometimes referred to as a "life book":
1. Typically includes photos, letters, report cards, school projects, artwork, and souvenirs; and
  2. Is the property of the child and will go with the child if he or she moves from the foster home.
- E.** Within seven days of the end of a foster child's placement in a home, the foster parent shall provide the Child Placing Agency with:
1. The records described in subsection (A); and
  2. A written description of the child's daily routine, personal preferences, and habits.

**R21-6-325. Participation in the Service Team**

- A.** The purpose of the service team is to ensure collaboration on the development and review of a foster child's case plan. A foster parent is a member of the service team for each foster child in his or her care. The service team also includes:
1. The foster child, as appropriate to the child's age and developmental level;
  2. The foster child's family, including persons who have a significant relationship with the family or the child;
  3. A representative of the Child Placing Agency;
  4. A representative of the licensing agency;
  5. Court-appointed advocates; and
  6. Persons providing services to the foster child, including attorneys, physicians, therapists, teachers, tribal representatives, and law enforcement personnel.
- B.** A foster parent shall participate as a member of the service team by:
1. Attending team meetings when:
    - a. The foster parent receives reasonable advance notice of the date, time, and location of the meeting; and
    - b. The meetings are held at a time and place that is accessible to the foster parent and compatible with the foster parent's work and child care schedules.
  2. Participating in team meetings through alternative means, which may include:
    - a. Conference calls, and
    - b. Providing advance comments to the Child Placing Agency or to other team members who will attend the meeting.
  3. Reporting to the team on the child's progress and concerns.
  4. Assisting in the review and development of the case plan.
  5. Assisting the child in attending and participating in meetings, as appropriate to the child's schedule, age, and developmental level.
- C.** A foster parent shall implement the case plan by:



1. Performing the tasks assigned to the foster parent in the case plan;
2. Helping a foster child to attain the goals identified in the case plan; and
3. Helping a foster child to obtain services specified in the case plan.

**R21-6-326. Notification Requirements; Unusual Incident**

- A.** A foster parent shall immediately notify the Child Placing Agency and licensing agency of the following incidents. For the purpose of this section, “immediately” means as soon as possible, following the notification of emergency services (911).
1. Death of a foster child;
  2. Unexplained absence of a foster child;
  3. Unauthorized removal or attempted removal of a foster child from the care and supervision of the foster parent;
  4. A serious illness, injury, or mental health crisis of a foster child requiring hospitalization or emergency room treatment;
  5. An allegation or the discovery of a sign of abuse or neglect of a foster child;
  6. Arrest of a foster child or the involvement of a foster child with law enforcement that does not lead to arrest;
  7. Fire or other situation requiring overnight evacuation of the home;
  8. Incidents that involve or are likely to involve the media; or
  9. Any other unusual incident that seriously jeopardizes the health, safety, or well-being of a foster child.
- B.** A foster parent or the licensing agency shall document the incident on a form provided by the Department.
- C.** A foster parent shall notify the Child Placing Agency and the licensing agency within 24 hours of the following incidents:
1. Injury, illness, change of medication, or medication error that requires a foster child to be seen by a doctor of medicine, physician assistant, or registered nurse practitioner;
  2. Theft of money or property belonging to a foster child;
  3. Significant damage to the property of a foster child;
  4. Injury to others or significant damage to the property of others caused by a foster child;
  5. The use of physical restraint to control a foster child’s sudden, out-of-control behavior;
  6. Arrest of a household member or involvement of a household member with law enforcement that does not lead to an arrest;
  7. Changes in the household that affect the foster parent’s ability to meet the needs of the foster child;
  8. Life-threatening illness, injury, or the death of a household member; or
  9. Incidents involving a DCS Report or investigation.
- D.** Within 24 hours of the occurrence of an incident specified in subsection (A) or (C), a foster parent shall provide the licensing agency in writing with:
1. A description of the incident, including the date and time of occurrence;
  2. The names and contact information for any persons involved in the incident;
  3. The names and contact information for any person who witnessed the incident; and
  4. The measures taken by the foster parent to address, correct, or resolve the incident.

**R21-6-327. Notification Requirements; Home or Household Changes**

- A.** A foster parent shall notify the licensing agency of any changes in the family or household composition, as soon as the foster parent is aware of the change including:
1. Marriage of a foster parent;
  2. Divorce or separation of a foster parent;
  3. Death of a foster parent or of a household member;
  4. Addition or departure of a household member from the home, including the birth or adoption of a child;
  5. Any changes in the living arrangements or circumstances of the unlicensed spouse when a foster parent is married but licensed individually under R21-6-408(B); or
  6. The addition of a visitor or household member to the foster home for:
    - a. 30 or more consecutive days, or
    - b. 30 or more cumulative days in a year.
- B.** A foster parent shall notify the licensing agency of substantial changes to the home, foster home, or premises, including:
1. Moving or relocation to another home;
  2. The addition of a pool, as defined in Article 1 of this Chapter; or
  3. Significant structural modifications to the home. For the purpose of this section, “structural modification” includes:
    - a. Adding or removing walls, windows, or doors; or
    - b. Converting a garage, attic, basement, or other similar space into a bedroom.
- C.** If a foster parent has advance knowledge of an event or change listed in subsection (A) or (B), the foster parent shall give the licensing agency reasonable advance notice of the anticipated event or change. “Reasonable advance notice” means notice that permits sufficient time for:
1. The licensing agency to request a Life Safety Inspection, in accordance with R21-6-211;
  2. OLR to issue an amended license, as prescribed in R21-6-410; and



3. The foster parent to continue providing care and supervision in the licensed foster home without disruption of the placement.
- D. The foster parent shall notify and obtain approval from DCS and the licensing agency before receiving a child from a Child Placing Agency, other than DCS.
- E. Failure to notify the licensing agency of an event or change may result in an adverse licensing action.

**R21-6-328. Emergency and Disaster Plan**

- A. A foster parent shall develop and maintain in the home a written emergency and disaster plan that includes:
  1. Contact information for each foster child, including the name and telephone number of the primary care physician and the Child Placing Agency;
  2. An evacuation plan for the home, as required by Chapter 8 of this Title; and
  3. A plan for relocation from the home in the event of displacement due to flood, fire, the breakdown of essential appliances, or other disasters.
- B. A foster parent shall provide a copy of the relocation plan to the Child Placing Agency for each foster child and to the licensing agency.
- C. As appropriate to the foster child's age and developmental level, a foster parent shall review and practice the evacuation plan with the child:
  1. Within 72 hours of the child's placement in the home,
  2. Within 72 hours of the foster parent's relocation to another home, and
  3. At least once each year following the child's placement in a foster home.

**R21-6-329. Special Provisions for Respite Care**

- A. A foster parent who provides respite care shall comply with all foster home requirements.
- B. A foster parent who provides respite care may simultaneously provide respite care, family foster care, and receiving care so long as the total number of children in the foster home at any one time does not exceed the ratios prescribed in R21-6-309 and the terms of the foster home license.
- C. A foster parent who provides respite care shall request and receive information and instruction from the regular foster home licensee on at least the following:
  1. Information and instruction about the specific personal care of a child in respite care;
  2. Information and instruction about the provision of medications required by a child in respite care;
  3. Behavior management policies and practices and specific instructions for a child in respite care; and
  4. Emergency contacts and telephone numbers for a child in respite care.
- D. A foster parent who provides respite shall comply with the requirements of R21-6-316. The respite provider shall have properly installed and adequate safety restraints and child car seats appropriate to the foster child's age for each child in respite care being transported. A foster parent may provide the equipment required by this subsection to the respite provider.

**R21-6-330. Special Provisions for an In-home Respite Foster Parent**

- A. A person applying for licensure solely as an in-home respite foster parent shall comply with all requirements in this Chapter except as otherwise provided in this Section.
- B. An applicant for an in-home respite foster parent is not required to provide the following:
  1. Immunization records for each child in the applicant's household as required by R21-6-403;
  2. Documentation of sufficient income as required by R21-6-403;
  3. A statement explaining the child care arrangements the applicant would make for a foster child, or the applicant's own children, during the applicant's working hours;
  4. A statement explaining how activities related to a business activity will not interfere with the care of a foster child;
  5. A description of the applicant's home and neighborhood;
  6. Fingerprinting or a criminal history check for household members, other than the applicant for in-home respite care, as required by R21-6-302; and
  7. Contact information for the foster child's Child Safety Worker.
- C. The following rules do not apply to a person seeking licensure solely as an in-home respite foster parent:
  1. R21-6-304. Life Safety Inspections;
  2. R21-6-311. Bedrooms, Beds and Bedding;
  3. Life Safety Inspection requirements in Chapter 8 of this Title;
  4. R21-6-314. Health and Medical Care; subsections (2)-(5);
  5. R21-6-323. Information and Records to be Provided to the Foster Parent, specifically the Placement Agreement requirements;
  6. R21-6-324. Records Maintained by the Foster Parent, except to document any behavioral health incidents, medical care, provision of medication, and any other event or service required by the case plan or which may be requested by the regular foster parent while the in-home respite foster parent has responsibility for the foster child in care;
  7. R21-6-325. Participation in the Service Team, unless requested to do so;
  8. R21-6-326. Notification Requirements; Unusual Incident, subsection (C)(7), unless the change or event directly affects the licensee's ability to provide respite care and comply with these rules; and



- 9. R21-6-327. Notification Requirements: Home or Household Changes, unless the change or event directly affects the licensee’s ability to provide respite care and comply with these rules.
- D. An in-home respite foster parent shall request and receive information and instruction from the foster parent on at least the following:
  - 1. Information and instruction about the specific personal care of a foster child in respite care;
  - 2. Information and instruction about the provision of medications required by a foster child in respite care;
  - 3. Behavior management policies and practices and specific instructions for a foster child in respite care; and
  - 4. Emergency contacts and telephone numbers for a foster child in respite care;
  - 5. Household policies and practices for emergency situations; and
  - 6. Routine household management practices that will provide for continuity in operation of the foster home for the comfort and support of a foster child in care.
- E. An in-home respite foster parent shall not permit any unlicensed person to accompany or assist the in-home respite foster parent while providing respite care.

**R21-6-331. Requirements for Certification to Provide Specialized Services**

- A. A license for a foster parent is a regular license.
- B. If the foster parent has met the additional requirements for certification to provide specialized services, OLR shall document the area of certification on the regular license. If more than one person is identified on the license, both shall meet the additional requirements for certification to provide a specialized service; except the foster parent who is not the primary care giver is exempt from compliance with subsections (E)(1)(a), (E)(2)(a) and (b), (E)(3)(b) and (c), and (E)(4).
- C. The foster parent shall comply with the requirements specified in this Section to renew the certification.
- D. The certification to provide a specialized service:
  - 1. Does not change the renewal date of the regular license; and
  - 2. Shall expire at the next renewal date of the regular license.
- E. The classes of foster homes that provide specialized services and the certification requirements are:
  - 1. Receiving Foster Home. This is a home in which the licensed foster parent receives a foster child with limited notice and provides care for a limited period of time. The foster parent for a receiving foster home shall:
    - a. Have three months' successful experience in child welfare, foster care, health care, education, or a related profession as approved by OLR. "Successful experience" means that the foster parent has been responsible for the health, safety, and well-being of a child for a minimum of 20 hours per week without any negative actions, such as termination for cause;
    - b. Assist the Child-Placing Agency in assessing the needs of each foster child placed on an emergency basis;
    - c. Assist the Child-Placing Agency in transitioning the foster child to another care setting.
    - d. Shall be prepared to accept a foster child, according to the capacity and terms of the foster home license, 24 hours per day, seven days per week; and
    - e. May be approved to simultaneously provide receiving care, family foster care, and respite care so long as the total number of children in the foster home at any time does not exceed the number approved in the regular foster home license, or any of the other limitations of the regular foster home license.
  - 2. Medically Complex Foster Home. This is a foster home that is licensed with a maximum capacity of three foster children, and each foster parent has completed specialized training to provide care to foster children identified by the Department as having medically complex needs. Children with medically complex needs include those who have or are at risk for chronic physical or developmental conditions and who require health-related services beyond that required by children in general. The foster parent for a Medically Complex Foster Home shall:
    - a. Have one of the following minimum experience or education:
      - i. One year’s experience as a licensed foster parent; or
      - ii. Licensed or certified as a healthcare professional, such as a doctor, nurse, or certified nursing assistant; or
      - iii. Three months’ successful experience in child welfare, foster care, health care, education, or a related profession as approved by OLR. "Successful experience" means that the foster parent has been responsible for the health, safety, and well-being of a child or adult with medically complex needs for a minimum of 20 hours per week without any negative actions, such as termination for cause; or
      - iv. A bachelor’s or graduate degree in healthcare, such as medicine or nursing.
    - b. Not have employment or commitments that interfere with the foster parent’s ability to meet the foster child’s medical needs and schedule;
    - c. Use adaptive equipment and encourage the foster child to use adaptive equipment to facilitate the child’s participation in daily living activities;
    - d. Provide the foster child with opportunities to participate in community activities on a regular basis unless there is a compelling medical reason not to do so;
    - e. Develop and follow an alternate supervision plan, approved by the Department, Child Placing Agency, and the licensing agency, if the foster parent is not available to provide primary care and supervision to foster children with medically complex needs. The alternate supervision plan shall include:
      - i. The name of each adult, age 18 years and older, who can provide supervision if the foster parent is not present;





- iii. Overview of medication interactions and potential medication reactions.
- g. Complete training to care for the special needs of a foster child, as indicated in the placement agreement;
- h. In addition to the training specified under R21-6-303, complete a minimum of 24 hours of training prior to license renewal. The Department shall approve the training curriculum and coordinate the training curriculum through a licensing agency. The training shall include:
  - i. Positive behavior development and de-escalation techniques,
  - ii. The purpose and safe use of medications, and
  - iii. Overview of medication interactions and potential medication reactions.
- 4. Group Foster Home. This is a home in which all licensed foster parents are certified to provide care for six to 10 foster children for the purpose of accommodating a specific sibling group, or as otherwise provided in A.R.S. § 8-514, for over capacity placements. In addition to meeting the requirements for a regular license, the foster parent for a Group Foster Home shall:
  - a. Have the following minimum experience or education:
    - i. History of care or contact with the specific children to be placed in the Group Foster Home; or
    - ii. One year's experience as a licensed foster parent; or
    - iii. Three months' successful experience in child welfare, foster care, education, or a related profession as approved by OLR. "Successful experience" means that the foster parent has been responsible for the health, safety, and well-being of a child for a minimum of 20 hours per week without any negative actions, such as termination for cause.
  - b. Uphold the age limitations of children prescribed by R21-6-309;
  - c. Conduct a fire drill at least once every three months;
  - d. Have at least two full bathrooms in the home; and
  - e. If recommended by OLR, or the Child Placing Agency, complete advanced training on positive behavior development, de-escalation techniques, or other topics related to the specific care needs of the foster children.

**R21-6-332. Placement of a Child With a Developmental Disability in a Foster Home**

- A. OLR shall refer the foster parent to the DES Division of Developmental Disabilities (DDD), Office of Licensing, Certification and Regulation (OLCR) for licensing as a child developmental home, if the Department has placed a child with a Developmental Disability in a foster home and the foster home has:
  - 1. No more than three placements, including the child with a Developmental Disability, or
  - 2. More than three placements but the placements are only the child with the Developmental Disability and that child's siblings.
- B. If the foster home is licensed by DES OLCR as a child developmental home, OLR shall place the regular foster home license on inactive status. The foster parent may reactivate the regular foster home license by complying with R21-6-413.
- C. If the foster home is not licensed by the DES OLCR as a child developmental home, or the foster home has more than three, but no more than five placements, including the child with a Developmental Disability, the home may remain a regular foster home with the following requirements:
  - 1. If the child with a Developmental Disability is eligible under A.R.S. § 36-559, OLR shall refer the foster parent to DES OLCR as an option to become HCBS certified; and
  - 2. The foster parent shall follow written and verbal instructions and orders from qualified professionals regarding the medical, dental, habilitative, and therapeutic needs of the child with a Developmental Disability.
- D. If the foster parent is not available to provide primary care and supervision for a foster child with a Developmental Disability, the foster parent shall develop and follow an alternate supervision plan, approved by the licensing agency and the Child Placing Agency in consultation with DES if the child with the Developmental Disability is eligible under A.R.S. § 36-559. The alternate supervision plan shall include:
  - 1. The name of each adult, age 18 years and older, who can provide supervision if the foster parent is not present;
  - 2. Information about the foster child's medical, physical, behavioral health condition, or other factors that put the child's health, safety, or well-being at risk that is necessary to provide care;
  - 3. Medication that is prescribed to be administered to the foster child while the foster parent is not present and any relevant instructions for the administration of that medication;
  - 4. Specialized training taken by individuals in subsection (1) necessary to provide care and supervision to the foster child; and
  - 5. Emergency contact information for the foster child, including a means to contact the foster parent, the licensing agency, and the Child Placing Agency.

**ARTICLE 4. THE LICENSING PROCESS FOR FOSTER PARENTS**

**R21-6-401. Minimum Qualifications to Apply for a License**

- A. Any individual or married couple meeting the following minimum qualifications shall be eligible to apply for licensure as a foster parent regardless of gender, race, religion, political affiliation, national origin, disability, or sexual orientation.
- B. All applicants shall submit a complete application and accompanying documentation for a foster home license.
- C. To apply for a family foster home license, the applicant shall:



1. Be at least 21 years of age, except as provided in R21-6-419.
2. Reside in Arizona and be lawfully present in the United States.
3. Not have a record of withdrawing from the licensing application process or closing a license before the completion of an investigation or licensing inquiry, except as permitted under R21-6-414(I); and
4. Declare under oath that he or she:
  - a. Has not committed a crime specified in Arizona Revised Statutes as a precluding crime for the issuance of a Level One fingerprint clearance card; and
  - b. Is not a registered sex offender.

**R21-6-402. Rights of the Applicant and the Foster Parent**

**A.** In addition to the inspection and due process rights specified under A.R.S. § 41-1009, and A.R.S. § 8-530, the foster parent shall have the right to:

1. Participate in an orientation offered by OLR or a licensing agency, which provides the following information:
  - a. An overview of the licensing process.
  - b. A copy of, or instructions for, accessing the licensing rules.
  - c. Requirements and information specific to the available licensing agencies, and
  - d. The mission and philosophy of the Department.
2. Choose or transfer to a licensing agency approved by the Department, at no cost to the applicant or foster parent;
3. Be treated with courtesy, dignity, and fairness by the licensing agency and the Department;
4. Be free from discrimination in the licensing process on the basis of political affiliation, marital status, or sexual orientation;
5. Receive information and training pertinent to the responsibilities of a foster parent;
6. Receive advice and technical assistance provided by the licensing agency or OLR to assist the applicant or foster parent in understanding the licensing requirements;
7. Direct the licensing agency to enter the applicant's complete and accurate information for licensure via the Department's electronic database;
8. Appeal an adverse licensing action as described under R21-6-417;
9. Elevate concerns about the licensing process in writing to the program administrator for OLR.
10. Be free from retaliation by a licensing agency and the Department in the event of a disagreement, an appeal, or an elevation of concerns by the foster parent or applicant;
11. Be informed of and provided the opportunity to be heard in any adverse licensing action conducted by OLR that impacts the foster parent's or applicant's license;
12. Reasonably refuse placement or request removal of a child without reprisal from the licensing or Child Placing Agency; and
13. The confidential treatment of private information revealed in the licensing process in accordance with A.R.S. § 8-502 and A.R.S. § 8-530.

**B.** Upon written request and payment of reasonable duplication and postage fees by a foster parent, the licensing agency shall forward a copy of the contents of the licensing records to an agency or organization for the purpose of assisting a foster parent who is being considered for a private or out-of-state adoptive placement, or any similar purpose.

**C.** Upon written request, OLR and a licensing agency shall permit a foster parent or applicant to access their licensing record, except as provided in subsection (E).

**D.** A foster parent shall be permitted to provide a written response to the Child Placing Agency and OLR on findings and comments in the home study, investigative reports, and any correspondence, with the exception of the items listed in subsection (E).

**E.** A foster parent or applicant shall not have access to the following:

1. Information supplied by confidential references during the licensing process;
2. Information protected from secondary dissemination under state or federal law, including DCS Reports and investigations and related records; or
3. The names of or identifying information for persons and organizations listed as sources in a licensing investigation or DCS Report or inquiry.

**R21-6-403. Application for an Initial License**

**A.** An individual or married couple shall complete the application for an initial license accurately and in full via the Department's electronic database. The applicant may direct the licensing agency to enter the application.

**B.** The application for an initial license shall include:

1. The full legal name of each household member;
2. All other names and aliases, including birth names and names used in previous marriages, of each household member;
3. The current marital status of the applicant;
4. The date of birth of each household member, except other foster children, including evidence that the applicant is at least 21 years of age;
5. The Social Security Number of each adult household member, for the purpose of conducting a background check;



6. The relationship between the applicant and all other household members, including a parent, sibling, housemate, or tenant;
7. The telephone number and e-mail address of the applicant;
8. The mailing address of the applicant and the physical address of the applicant's home;
9. A statement that the applicant resides in Arizona;
10. The document specified under A.R.S. § 41-1080(A) and, as applicable (E), to demonstrate that the applicant is lawfully present in the United States;
11. The name of the school district in which the applicant's home is located;
12. Each address held by each adult household member during the previous 10 years;
13. The name, date of birth, current address, and telephone number of each child of the applicant who lives outside the applicant's home, if known, and a statement as to whether the child is reasonably expected to have contact with a child in foster placement;
14. The applicant's employment history, including the names of employers, dates of employment, and positions held during the previous 10 years;
15. A summary of the applicant's education;
16. A description of the applicant's experience in caring for children or adults;
17. The applicant's household budget, showing income, resources, assets, debts, and obligations;
18. Plans for the sleeping arrangements for each household member and for each potential foster child;
19. Plans for transportation of each potential foster child including:
  - a. Evidence of a valid driver license for each household member who will provide transportation;
  - b. Evidence that each vehicle to be used for transportation is registered and insured to operate in Arizona; and
  - c. Evidence that the applicant has or shall obtain prior to placement, the correct number and type of child car seats for the conditions of the license.
20. A description of any pool on the foster home premises;
21. A description of the applicant's prior efforts to be certified or licensed for adoption, foster care, assisted living, child-care, and any other service for children or vulnerable adults, including:
  - a. Applications that were withdrawn or denied; and
  - b. Applications that resulted in a license or certification that was suspended or revoked.
22. A list of the names, mailing and e-mail addresses, and telephone numbers of five references, to attest that the applicant is of good character and has the qualifications to care for a foster child:
  - a. At least one of the references, but not more than two, shall be related to the applicant;
  - b. At least three of the references shall be unrelated to the applicant;
  - c. If the applicant is married, then at least two of the references shall be familiar with the applicant as a couple; and
  - d. If another adult household member is applying for a license or is currently licensed, then at least two of the references shall be familiar with both the applicant or foster parent and other household member.
23. A disclosure of civil and court proceedings in which the applicant has been a party, including:
  - a. Criminal proceedings;
  - b. Lawsuits;
  - c. Dependency actions, including:
    - i. Removal of a dependent,
    - ii. Voluntary relinquishment,
    - iii. Suspension of custody, or
    - iv. Termination of parental rights;
  - d. Charges of child abuse or neglect;
  - e. Child support enforcement proceedings within the last five years;
  - f. Bankruptcy within the last five years;
  - g. Divorce, separation, or any other civil proceedings; and
  - h. Adoption;
24. A criminal record self-disclosure completed by each adult household member;
25. Evidence that each adult household member, has obtained a Level One fingerprint clearance card;
26. A disclosure by the applicant of any allegation against the applicant of abuse or neglect of any child or vulnerable adult;
27. Any history of abuse or neglect involving the applicant;
28. Authorization for a Central Registry record check:
  - a. For each adult household member, and
  - b. With each state in which any adult household member resided in during the previous five years.
29. A health self-disclosure completed by each adult household member;
30. A physician's statement as defined in R21-6-101(54), related to the physical and behavioral health completed for the applicant and for each adult household member who will be providing care and supervision;



31. An up-to-date immunization record, if available, for each child household member. The lack of available immunization records shall not prohibit licensure, but may be grounds for restricting the license to prevent the placement of infants, young children, and medically complex individuals; and
  32. A Statement of Understanding signed by the applicant and attesting to the truth of the information provided during the application process.
- C. The applicant in cooperation with a licensing agency shall submit the information required under R21-6-205 and this Section and the home study and assessment as directed under R21-6-206 and R21-6-405.

**R21-6-404. Types of Licenses**

**A.** OLR grants the following types of licenses:

1. An initial license.
2. A renewal license, and
3. An amended license to reflect changes made to information on the initial or renewal license.

**B.** The license for a foster parent shall specify the following:

1. The type of license (initial, renewal, or amended);
2. The name of the foster parent;
3. The physical address of the home;
4. The date the license is issued;
5. The maximum number of foster children that may be placed in the home;
6. The age range of foster children that may be placed in the home;
7. The gender of foster children that may be placed in the home;
8. Specialized services the foster parent is certified to provide, as applicable, under Article 3 of this Chapter include the following:
  - a. Receiving Foster Care.
  - b. Medically Complex Foster Care.
  - c. Therapeutic Foster Care, and
  - d. Group Foster Care.
9. All restrictions applicable to the license, including restriction to:
  - a. A specific foster child.
    - i. OLR shall not identify the name of a foster child on the license.
    - ii. OLR shall only specify the name of a foster child in confidential correspondence.
  - b. Respite care only.
  - c. Prevent the placement of infants, young children, and medically complex individuals, to protect their health due to a lack of a household member's immunization; and
10. The name of the licensing agency.

**C.** A license shall be valid for the period of time specified on the license and shall expire on the specified date unless the foster parent licensee files an application for renewal before the expiration date. In addition, a license shall terminate if:

1. The foster parent voluntarily closes the license, under R21-6-414(I);
2. OLR revokes the license as described under R21-6-414;
3. The foster parent moves to a different residence without first notifying the licensing agency or OLR; or
4. The foster parent moves out of Arizona.

**R21-6-405. Home Study and Assessment**

- A.** The applicant and adult household members shall complete self-assessments, using the forms approved by OLR, and share the results of the self-assessments with the licensing agency. The licensing agency shall, in the home study, summarize and consider information provided in the self-assessments.
- B.** All household members, including each child household member, if appropriate to the child's age and developmental level, shall participate in interviews conducted by the licensing agency, as directed by R21-6-206.
- C.** The applicant shall participate in and successfully complete pre-service training as specified in R21-6-303.
- D.** The applicant shall provide additional information as needed for the licensing agency to evaluate the fitness of the applicant and to conduct the home study.

**R21-6-406. The Licensing Decision**

**A.** OLR shall evaluate the applicant's compliance with licensing requirements before making a licensing decision.

**B.** Prior to making a licensing decision, OLR may, as necessary and appropriate:

1. Require the applicant or licensing agency to provide additional documentation to verify compliance with licensing requirements, such as marriage licenses, divorce decrees, legal separation agreements, child support orders or payments, pay stubs, and bankruptcy documents;
2. Require the applicant or licensing agency to provide additional information if:
  - a. The medical, physical, or mental health needs of a household member could interfere with the care and supervision of a foster child;
  - b. Adults residing outside the household will have frequent or close contact with a foster child; or
  - c. A household member has been charged with or convicted of a crime, even if the specific crime does not preclude the issuance of a Level One fingerprint clearance card;



- 3. Gather additional information needed to determine the applicant’s fitness. This may include:
    - a. Interviewing the applicant.
    - b. Contacting references.
    - c. Verifying information provided in the application or by the licensing agency, and
    - d. Inspecting the applicant’s home.
  - C. When making a licensing decision, OLR shall consider factors that have a bearing on the applicant’s or foster parent’s fitness. These factors include:
    - 1. The applicant’s current and historical compliance with licensing requirements. In assessing complaints and violations with statutes and licensing requirements, OLR shall consider:
      - a. The type of complaint or violation.
      - b. The severity of each violation.
      - c. The number of complaints or violations.
      - d. A pattern of complaints or violations, and
      - e. The applicant or foster parent’s response to a corrective action plan.
    - 2. The applicant’s history of parenting or caring for children or vulnerable adults;
    - 3. Allegations of abuse or neglect of a child or vulnerable adult made to DCS or the DES adult protective services against any of the following individuals residing in the home: the applicant, a household member, a foster child, an adult with a Developmental Disability, or a young adult residing in the foster home under a written individual case plan agreement for out-of-home care. To determine whether the allegation of abuse or neglect affects the applicant’s fitness, OLR shall consider all relevant factors, including:
      - a. Whether the allegation was substantiated.
      - b. The number and nature of all allegations.
      - c. The length of time that has elapsed since each allegation.
      - d. The circumstances surrounding each allegation.
      - e. The extent of the person’s rehabilitation, and
      - f. The nature and extent of each household member’s involvement in the allegation.
    - 4. The stability of residency in Arizona;
    - 5. The stability of marital and household relationships;
    - 6. The applicant’s or foster parent’s financial stability and ability to meet obligations;
    - 7. Medical, physical, or mental health concerns that impact the applicant’s or foster parent’s ability to provide safe care and supervision to a child. OLR shall consider accommodations presented by the applicant, as permitted under R21-6-301 to reduce or eliminate any medical, physical, or mental health conditions;
    - 8. Significant life disturbances, including the death of a family member, divorce, bankruptcy, and job separation;
    - 9. Patterns of criminal charges or allegations; and
    - 10. Other significant factors in the applicant’s life.
  - D. OLR may waive non-safety licensing requirements on a case-by-case basis for an applicant who will only provide kinship care.
  - E. The licensing decision shall occur within the time-frames specified under R21-6-407.
- R21-6-407. Licensing Time-frames**
- A. OLR shall review an application and render a licensing decision within required time-frames.
  - B. Within 30 days of receiving an application, OLR shall conduct an administrative completeness review to determine whether all required documentation and information has been submitted. Within the 30-day administrative review time-frame:
    - 1. If the application is complete, OLR shall immediately move the application forward for a substantive review; or
    - 2. If the application is incomplete, OLR shall issue a Notice of Incomplete Application to the applicant and the licensing agency containing a list of items and information needed to complete the application.
      - a. The applicant shall have 30 days to supply the missing items or information to OLR via the licensing agency.
      - b. The time-frame for the administrative completeness review shall be suspended from the date OLR issues the Notice of Incomplete Application to the date that OLR receives the missing item or information.
      - c. If the applicant does not supply the requested items or information within 30 days of receiving the Notice of Incomplete Application, OLR may close the file. Once closed, the applicant may reapply for licensure, except as prohibited by R21-6-414.
      - d. If the applicant supplies the required items and information via the licensing agency to OLR within 30 days, OLR shall conduct a substantive review of the application.
  - C. Within the 30 days following the administrative completeness review of an application, and if the application is complete, OLR shall complete a substantive review to evaluate the applicant’s fitness for licensure. Within the 30- day substantive review time-frame, OLR:
    - 1. May request that the applicant or licensing agency provide additional information if needed to evaluate the suitability of the applicant for licensure.
      - a. The applicant and the licensing agency shall have an additional 21 days to provide the information to OLR.



- b. The time-frame for the substantive review shall be suspended from the date OLR requests additional information to the date OLR receives the information.
- 2. Shall make the licensing decision, as described under R21-6-406, and take a licensing action, as described under R21-6-414.
- D. Within an overall time-frame of 60 days upon receipt of a complete application, OLR shall:
  - 1. Complete an administrative review of an application.
  - 2. Complete a substantive review of an applicant's fitness, and
  - 3. Notify the applicant and the licensing agency of the decision to grant or deny a license.
- E. The same time-frames used for initial licensure shall also apply to renewing and amending a license:
  - 1. OLR shall complete the administrative completeness review within a maximum of 30 days from receipt of the application.
  - 2. OLR shall complete the substantive review of a complete application within a maximum of 30 days following the administrative completeness review.
  - 3. OLR shall review the application and notify the applicant and licensing agency of the licensing decision within a maximum of 60 days, not including suspended timeframes, from receipt of the application.

<u>Process</u>	<u>Responsible Party</u>	<u>Time-frame for Completion</u>
<u>Completion of training and assembly of the application</u>	<u>Applicant and licensing agency</u>	<u>Not regulated: typically two–four months</u>
<u>Administrative completeness review</u>	<u>OLR</u>	<u>Maximum of 30 days</u>
<u>Respond to the notification of incompleteness</u>	<u>Applicant and licensing agency</u>	<u>Maximum of 30 days (time-frame is suspended)</u>
<u>Substantive review</u>	<u>OLR</u>	<u>Maximum of 30 days</u>
<u>Respond to request for additional information to evaluate fitness</u>	<u>Applicant and licensing agency</u>	<u>Maximum of 21 days (time-frame is suspended)</u>
<u>Overall time-frame for a licensing decision</u>	<u>OLR</u>	<u>Maximum of 60 days</u>

**R21-6-408. Licensing Limitations**

- A. OLR may license unmarried applicants who reside together individually and shall link the unmarried applicants in the Department's electronic database.
- B. OLR shall license married applicants jointly, unless a married applicant applies to be licensed individually because:
  - 1. The applicant's spouse is permanently, physically disabled to such an extent that the spouse is unable to provide care for a child, as verified by a physician's statement;
  - 2. The applicant's spouse is absent from the household and expected to be absent from the household for nine or more of the following 12 months due to military service; or
  - 3. The applicant and his or her spouse have been separated for at least one year, and the spouses have not lived together. If the spouses have not lived together for:
    - a. Five or more years the applicant shall:
      - i. Sign a statement that the marriage is over and the applicant has no intent to live or reconcile with their spouse;
      - ii. If the applicant knows the location of the spouse, obtain a statement from the spouse that the marriage is over, and the spouse has no intent to live or reconcile with the applicant;
      - iii. Submit evidence that the spouse is living elsewhere, if available; and
      - iv. Submit any other evidence that the spouse is not going to return to the household; or
    - b. One to five years, the applicant's spouse shall:
      - i. Obtain a Level One fingerprint clearance card, and
      - ii. Pass a protective services registries check.
- C. If OLR licenses a married applicant individually under subsections (B)(2) or (3) and the applicant's spouse returns, the applicant shall:
  - 1. Notify OLR immediately under R21-6-411; and
  - 2. Submit a new application as a married couple under R21-6-403 and meet all licensing requirements.
- D. A license is only valid for the licensee specified on the license.
- E. A license is only valid for the address specified on the license.
- F. A foster parent shall not simultaneously hold more than one license or a license and certification to provide human care services in the foster home, including foster care, child care, assisted living, or an adult developmental home without the written approval of OLR. This restriction does not apply to the certification of a licensed foster home to provide specialized services under the classification of licenses described under R21-6-331.
- G. An applicant shall not be an employee or relative of an employee for the licensing agency that is assisting the applicant with licensure.
- H. OLR's issuance of a license to a qualified applicant does not guarantee the placement of a child.



- I. A foster parent is limited to the capacity, age, gender, and other conditions or restrictions specified on the license when providing care, including respite care.
- J. The foster parent shall notify and obtain approval from DCS and the licensing agency before receiving a child from a Child Placing Agency, other than DCS.

**R21-6-409. Training Reporting Update**

- A. The foster parent shall cooperate with the licensing agency to provide proof of completion of the training required by A.R.S. § 8-509.
- B. OLR may take an adverse licensing action against the foster parent if he or she fails to complete the required training and to submit the information in subsection (A) as required by A.R.S. § 8-509.

**R21-6-410. Amending the License**

- A. The foster parent shall notify the licensing agency if there are any circumstances requiring an amendment to the license.
- B. The foster parent shall work with the licensing agency to request an amendment to modify the following information on the license:
  - 1. License type;
  - 2. Increase or decrease in capacity, age range, and gender of the foster children who may be placed in the home;
  - 3. Physical address of the home;
  - 4. Remodel of the home;
  - 5. Legal name of the foster parent;
  - 6. Change in marital status;
  - 7. Addition of a household member, including the birth of an adopted child;
  - 8. Name of a spouse, due to the death of a spouse or due to a change in marital status;
  - 9. Death of a licensed foster parent;
  - 10. Name of the licensing agency specified on the license;
  - 11. Modification of the license expiration date; or
  - 12. Any condition or certification specified on the license.
- C. The foster parent shall work with the licensing agency to request an amendment to the license via the Department's electronic database. The following information shall be included in the request to amend a license:
  - 1. A description of the change or changes being requested;
  - 2. Justification for the change or changes, as appropriate;
  - 3. Other relevant information to assist in the issuance of a license amendment;
  - 4. Results of a new Life Safety Inspection, if required;
  - 5. A recommendation by the licensing agency to issue or deny an amended license; and
  - 6. A recommendation by the licensing agency to limit the terms or conditions of a license, if applicable.
- D. To request an amendment to the license to change the physical address due to the relocation of the foster parent, the foster parent shall:
  - 1. Provide new contact information including:
    - a. Phone number;
    - b. Address, and
    - c. E-mail;
  - 2. Provide evidence that the change in residence does not negatively impact their ability to meet financial obligations;
  - 3. Provide plans for the sleeping arrangements for each household member and foster child; and
  - 4. Ensure that the home meets the standards for a Life Safety Inspection, in accordance with Chapter 8 of this Title.
- E. To request an amendment to the license to add the name of a spouse due to marriage, the foster parent and spouse shall jointly:
  - 1. Complete an application for licensure;
  - 2. Submit proof of legal marriage;
  - 3. Participate in the home study and assessment; and
  - 4. Cooperate with the licensing agency's evaluation of the spouse's fitness as defined in R21-6-101(20).
- F. OLR may initiate the action to amend a license to protect the health, safety, or well-being of a foster child.
- G. An amendment shall not change the expiration or issuance dates on a license, unless the amendment is approved to modify the license expiration date.
- H. Information provided for a renewal does not replace the process required to amend the license.

**R21-6-411. Addition of Household Members**

- If there is a change in household members during the term of the license, the foster parent shall:
- 1. Notify the licensing agency of the change to the household in accordance with R21-6-327 and R21-6-411;
  - 2. Ensure that each new household member complies with the applicable requirements of this Chapter; and
  - 3. Notify the licensing agency and obtain OLR and Child Placing Agency approval of proposed changes in the sleeping arrangements for each household member and for each foster child.

**R21-6-412. Application for a Renewal License**

- A. A license shall:
  - 1. Be valid for the period of time specified on the license, and



2. Expire at midnight of the expiration date if the applicant does not apply for a renewal license in accordance with this Article.
- B.** To initiate the renewal of the license, the foster parent shall confirm:
  1. With the licensing agency that he or she wishes to renew the license, and
  2. The accuracy of or update the information via the Department's electronic database.
- C.** The foster parent shall cooperate with the licensing agency by:
  1. Participating in and facilitating interviews necessary for the licensing agency to update the home study;
  2. Assembling the documents needed to demonstrate ongoing compliance with licensing requirements;
  3. Completing training, as described in R21-6-303 and R21-6-331 if applicable.
  4. Cooperating with the completion of a Life Safety Inspection of the home as described under R21-6-304:
    - a. By the licensing agency every year, and
    - b. By OLR at least once every two years.
  5. Providing a current health self-disclosure for each adult household member every year;
  6. Obtaining a physician's statement for the foster parent at least once every two years and providing a physician's statement for other adult household members if determined to be necessary by OLR in accordance with R21-6-302;
  7. Maintaining a current and valid fingerprint clearance card meeting Level One requirements for each adult household member; and
  8. Signing the Statement of Understanding.

**R21-6-413. Application for License Reinstatement**

- A.** OLR shall evaluate an applicant for reinstatement the same as an applicant for a renewal license under R21-6-412.
- B.** Reinstatement is available to applicants previously licensed by OLR, including those foster parents whose license is on inactive status because the foster home has been licensed by DES as a child developmental foster home if:
  1. The previous application for licensure was submitted via the Department's electronic database;
  2. The previous license has been expired for less than one year, or if a child developmental home, there has been a gap in licensure between the foster home license and the child developmental foster home license of less than one year;  
and
  3. OLR completes a new Life Safety Inspection.

**R21-6-414. Licensing Actions**

- A.** Within the time-frame specified in R21-6-407, OLR shall notify the applicant and the licensing agency of the licensing decision.
- B.** OLR shall issue a license if OLR determines that an applicant or foster parent is in:
  1. Full compliance with all licensing requirements;
  2. Substantial compliance with licensing requirements and an approved corrective action plan is in place for violations, as specified under R21-6-416; or
  3. Substantial compliance based on information currently available if an investigation is pending.
- C.** OLR may deny, suspend, or revoke a license if an applicant or foster parent:
  1. Refuses or fails to provide the licensing agency or OLR with information needed to evaluate compliance with licensing requirements;
  2. Misrepresents or falsifies information needed by the licensing agency or OLR to evaluate compliance with licensing requirements;
  3. Misrepresents or falsifies information presented by a household member during the licensing process;
  4. Is aware of a misrepresentation or falsification of the information presented by the household member during the licensing process;
  5. Refuses or fails to substantially comply with licensing requirements, Arizona or federal laws, or local codes or ordinances;
  6. Refuses or fails to carry out a required corrective action plan to correct a violation;
  7. Has been denied a certificate or license to provide care to a foster child or vulnerable adult, unless the denial was based on failure to complete the process according to a required time-frame;
  8. Has had a certificate or license to provide care to a foster child or vulnerable adult denied, suspended, or revoked;
  9. Has a household member that refuses to cooperate with the licensing process;
  10. Lives in a home in which a fingerprint clearance card meeting Level One requirements for a foster parent and an adult household member has been suspended, denied, or revoked;
  11. Lives in a home in which an allegation of child abuse or neglect has been substantiated against a household member; or
  12. The foster parent moves to a different residence without first notifying the licensing agency.
- D.** OLR may initiate an adverse licensing action if OLR concludes that:
  1. A violation of licensing requirements is not correctable;
  2. A violation of licensing requirements poses a risk to the health, safety, or well-being of a child;
  3. A foster parent has a history or pattern of similar violations with licensing requirements; or
  4. A violation is ongoing and continuing.



- E.** If OLR takes an adverse licensing action, OLR shall send a dated notice of the action to:
  1. The applicant or foster parent by certified mail;
  2. The licensing agency; and
  3. The Child Placing Agency for each child placed with the foster parent or applicant at the time of the action.
- F.** The notification for an adverse licensing action shall specify:
  1. The effective date of the adverse action;
  2. The facts upon which the adverse action is based;
  3. The law or rule violation that is the basis of the adverse action; and
  4. The time-frame and process for the applicant or foster parent to appeal the adverse action, including:
    - a. The form approved by DCS to appeal the adverse action; and
    - b. The procedure for the applicant or foster parent to request an appeal of the adverse action.
- G.** In the event of an adverse licensing action, and until there is final resolution of the matter:
  1. The foster parent shall not:
    - a. Receive new placements;
    - b. Accept additional foster children;
    - c. Provide short-term care as described under R21-6-306 or respite care;
  2. A Child Placing Agency shall not place additional foster children with the foster parents; and
  3. The Child Placing Agency may remove a current foster child from the home if, in the judgment of the Child Placing Agency, there is reasonable belief of a risk to the health, safety, or well-being of the child.
- H.** In the event of a license revocation, the adverse action shall be effective:
  1. On the 26th day after the foster parent's receipt of the revocation notice; or
  2. On the date that an administrative hearing officer or appeals board issues a written decision affirming the revocation, if the foster parent appeals the revocation.
- I.** An applicant or foster parent may voluntarily withdraw the application for licensure or close the license at any time by submitting written notice to the licensing agency and OLR, using the form approved by OLR.
  1. If the foster parent voluntarily withdraws an application or closes a license while in good standing, the applicant or foster parent may re-apply for a license.
  2. A license is not in good standing, and the licensing authority shall deny a re-application, if the foster parent withdrew or closed a license:
    - a. Before the completion of a corrective action, or with the knowledge that a corrective action plan was pending if the closure was to avoid compliance with the corrective action plan;
    - b. Before the completion of an investigation or inquiry; or
    - c. When a DCS investigation of child abuse or neglect is pending.

**R21-6-415. Routine Monitoring and Verification of Ongoing Compliance**

- A.** Throughout the term of a license, the foster parent shall ensure ongoing compliance with licensing requirements.
- B.** The foster parent shall cooperate with monitoring requirements by making the home available for inspections and by participating in interviews. Inspection and monitoring activities by the licensing agency or OLR may include, as necessary and appropriate:
  1. A review of records and reports maintained by the foster parent on the care, services, and treatment provided;
  2. Interviews with the foster parent and household members including children in the home age five years and older;
  3. Interviews with foster children; and
  4. An inspection of the home, foster home, and vehicles used to transport foster children.
- C.** At the time of each monitoring or inspection, the licensing agency shall provide the applicant or foster parent with:
  1. A written summary of the monitoring or inspection activities conducted;
  2. Planned follow-up and required corrective actions, as applicable; and
  3. A written summary of the applicant's or foster parent's rights, in accordance with A.R.S. § 41-1009.
- D.** The licensing agency shall keep a copy of the written summaries specified in subsection (C) and make the summaries available to OLR upon request.

**R21-6-416. Corrective Action Plan**

- A.** OLR may initiate and place a foster parent on a corrective action plan to remedy the violation of a licensing requirement. A foster parent shall comply with the corrective action plan.
- B.** In determining whether to require corrective action, OLR shall consider the following criteria:
  1. The nature of the violation;
  2. Whether the violation can be corrected;
  3. Whether the foster parent understands the violation and shows a willingness and ability to participate in corrective action;
  4. The length of time required to implement corrective action;
  5. Whether the same or similar violations have occurred on prior occasions;
  6. Whether the foster parent has had prior corrective action plans, and, if so, the foster parent's success in achieving the goals of the plan;
  7. The foster parent's history as a foster parent or care giver; and



8. Other similar or comparable factors demonstrating the foster parent's ability and willingness to follow through with a corrective action plan and avoid future violations.
- C. The corrective action plan shall:
  1. Be written by OLR and may be in cooperation with the licensing agency.
  2. Specify the facts that constitute the violation.
  3. Specify the law or rule violated by the foster parent.
  4. Specify the steps a foster parent must take to remedy the violation, and
  5. Specify a date for completion of the required corrective action.
- D. The licensing agency or OLR may, as necessary and appropriate, conduct an unannounced monitoring visit to verify the implementation or completion of a corrective action.

**R21-6-417. The Appeal Process**

- A. An applicant or foster parent shall have the right to appeal an adverse licensing action following the process specified under 21 A.A.C. Chapter 1, Article 3.
- B. To appeal, per A.R.S. § 8-506, an applicant or foster parent shall submit a written notice of appeal to OLR within 25 days from the mailing date on the adverse licensing action notice.
- C. The notice of appeal shall specify the action being appealed, and a statement of why the adverse licensing action is wrong.
- D. If a child has been removed from the home because of a health, welfare, or safety issue, the child shall remain out of the home while the appeal is pending.
- E. The following are not appealable:
  1. Restrictions or limits specified by OLR on the license, including the capacity, age group, or gender of children that may be placed in the home;
  2. The assignment of a required corrective action, as specified under R21-6-416, to bring the applicant or foster parent into compliance with licensing requirements.

**R21-6-418. Allegations of Abuse or Neglect; Licensing Complaints**

- A. The applicant or foster parent shall immediately report allegations of abuse or neglect of a child, or a licensing complaint to the Department's Centralized Intake Hotline and to the licensing agency.
- B. The applicant or foster parent shall cooperate with:
  1. An investigation conducted by DCS, and
  2. A licensing investigation conducted by a licensing agency or OLR.
- C. The Child Placing Agency shall not place additional children in the foster home throughout the DCS or licensing investigation until the matter is resolved.
- D. OLR shall determine the action, if any, that it will take against the foster parent.
  1. OLR shall implement an adverse licensing action as described under R21-6-414 if the DCS or licensing investigation:
    - a. Substantiates an allegation of abuse or neglect; or
    - b. Confirms the violation of a licensing requirement and there is reasonable cause to believe the violation:
      - i. Is continuing;
      - ii. May recur; or
      - iii. Poses a risk to the health, safety, or well-being of a child.
  2. If the licensing investigation validates that there was a violation of a licensing requirement but that the foster parent has corrected the violation, OLR:
    - a. Shall record the incident and resolution in the licensing record.
    - b. May specify additional required corrective action, and
    - c. Shall notify the licensing and Child Placing Agency of the violation and corrective action.
- E. A complainant's identity is confidential unless OLR takes a licensing action based on the testimony of the complainant.

**R21-6-419. Waiver of Non-Safety Licensing Requirements for Kinship Care**

- A. OLR may waive specific non-safety rule requirements for an applicant or foster parent providing only kinship care, as defined under R21-6-101(36), on a case by case basis, if the applicant or foster parent demonstrates that compliance would be a hardship. The applicant or foster parent may work with his or her licensing agency to comply with this Section.
- B. The request for a waiver shall include:
  1. The specific rule to be considered for waiver by OLR;
  2. The reason compliance would be a hardship;
  3. Any proposed alternative compliance with the rule requirement, including pictures or diagrams that depict any physical requirement to be waived; and
  4. Justification that waiving the licensing requirement will not compromise the safety of a foster child.
- C. The applicant or foster parent or licensing agency shall submit a waiver request only on forms supplied by OLR.
- D. OLR shall consider the waiver of a non-safety licensing requirement on a case-by-case basis.
- E. An applicant or foster parent shall base a waiver request on a licensing requirement and the needs of the foster child. OLR shall not grant a waiver request because it would be inconvenient for the foster parent or applicant to comply with a licensing requirement.





and A.R.S. § 8-509 gives the Department the authority to license foster homes and investigate a foster home pursuant to the licensing rules of the Department.

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

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

None

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

Not applicable

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

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

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

Not applicable

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

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

Public hearings on these rules were held on September 8, 2015 in Tucson and September 10, 2015 in Phoenix. Attendees were provided the opportunity to provide oral or written comments. A copy of these rules were posted to the Department’s website from August 3, 2015 to September 11, 2015 along with an on-line survey to obtain public comments.

Three oral comments at the meeting in Tucson requested a more clear definition of “exotic, venomous or constricting animals.” There were several oral and written comments at the meeting in Phoenix that requested the Department to retain the current requirements in rule for pool safety. Written comments received on-line and in the U.S. mail, made recommendations for the wording for the rules covering fire safety and evacuation plan requirements, and the rules covering the storage of weapons.

Additional meetings with stakeholders took place on September 29 and October 8, 2015 to obtain clarification and support of the comments that were incorporated where applicable into the final rule package.

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

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

Not applicable

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

42 U.S.C. 671. The rules are not more stringent than federal law.

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

Not applicable

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

None

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

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

**15. The full text of the rules follows:**



**TITLE 21. CHILD SAFETY**

**CHAPTER 8. DEPARTMENT OF CHILD SAFETY**  
**FOSTER HOME AND CHILD WELFARE AGENCY FACILITY SAFETY**

**ARTICLE 1. LIFE SAFETY INSPECTIONS**

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**ARTICLE 1. LIFE SAFETY INSPECTIONS**

**R21-8-101. Definitions**

The definitions in R21-6-101 apply to this Article, except the following terms are defined as:

1. “Home” means a foster home or Child Welfare Agency residential group care facility where the provider is licensed to provide care to a foster or privately placed child in a residential group care facility.
2. “Pool” means any natural or man-made body of water located at a home or on its premises that:
  - a. Could be used for swimming, recreational, therapeutic, or decorative purposes;
  - b. Is greater than 18 inches in depth; and
  - c. Includes swimming pools, spas, hot tubs, fountains, and fishponds.
3. “Premises” means:
  - a. The home; and
  - b. The property surrounding the home that is owned, leased, or controlled by the provider.
4. “Provider” means a licensed foster parent or Child Welfare Agency residential group care facility, and applicants for these licenses.

**R21-8-102. Application**

This Article applies to:

1. All foster homes regulated under A.A.C. Title 21, Chapter 6; and
2. A Child Welfare Agency operating a residential group care facility or shelter care facility regulated under A.A.C. Title 6, Chapter 5, Article 74, but not a Child Welfare Agency operating an outdoor experience program.

**R21-8-103. Frequency of Inspection and Inspection Area**

**A.** Each provider shall have a Life Safety Inspection of the premises.

**B.** OLR shall inspect the premises:

1. At initial licensure;
2. Every two years; and
3. Within three months prior to the renewal date of a license.

**C.** The Life Safety Inspection shall include all rooms and dwellings on the premises in which a foster or child in a Child Welfare Agency residential group care facility resides or may have access to, including sheds, mobile homes, trailers, and cottages.

**R21-8-104. General Condition and Cleanliness of the Premises**

The provider shall ensure:

1. The interior is clean, sanitary, and disinfected to prevent, minimize, and control illness, infection, or injury.
2. The premises is maintained in good repair and does not constitute a hazard. Damage that constitutes a hazard includes:
  - a. Broken glass;
  - b. Surfaces that are rusted, have sharp or jagged edges, or have nails protruding;
  - c. Holes in walls, ceilings, or floors; or
  - d. Broken furniture, fixtures, appliances, or equipment.
3. Play areas and therapy equipment are stable, in good repair, and do not constitute a hazard.



4. Swing sets are securely anchored to the ground.
5. The premises are clean to the degree that the condition does not constitute a hazard. Conditions that constitute a hazard include:
  - a. Rotting food.
  - b. Stale or accumulated urine or feces, or
  - c. An accumulation of mold.
6. Garbage is removed from the premises at least once each week.
7. The premises and outside play areas are free of insect and rodent infestation, or the premises have an effective ongoing system to eliminate insects or rodents.
8. Water in a pool on the premises is maintained, is not stagnant, and is clear enough to see through the water to the bottom surface of the pool.
9. Excessive weeds and brush that pose a fire hazard are trimmed or removed.

**R21-8-105. Safeguarding of Hazards****A.** The provider shall ensure:

1. Highly toxic substances and materials are safeguarded in locked storage. Highly toxic substances include gasoline, lighter fluid, pesticides, radiator fluid, drain cleaner, ammonia, bleach, spray paint, turpentine, and other substances that can cause serious bodily harm or death if improperly used.
2. Household cleaning supplies are safeguarded to prevent unsafe or improper use. Household cleaning supplies are substances that are not intended for ingestion, but generally will not cause serious bodily harm or death if improperly used. Examples of household cleaning supplies include spray cleaners, laundry detergent, furniture polish, and dishwasher detergent.
3. Access to personal grooming supplies is not restricted unless the case plan or service plan for a foster child or child in a residential group care facility specifically restricts such access. Personal grooming supplies include toothpaste, hand-soap, shampoo, menstrual products, and deodorant.
4. Ramps, bathtubs, and showers have slip-resistant surfaces.
5. Handrails and grab-bars are securely attached and stationary.
6. Skirting is intact around the base of the setting, if the setting is a mobile home.
7. The child's access is prevented as appropriate, for his or her age and development, from all medications, poisonous materials, cleaning supplies, other hazardous materials, and alcoholic beverages.
8. That the home maintains first aid supplies.

**B.** OLR may require removal, repair, or safeguarding of physical and other hazards that are determined to be unsafe for a foster child or child in a residential group care facility, including a drained swimming pool and trampoline.**R21-8-106. Weapons and Firearms****A.** The provider shall meet the following standards concerning weapons:

1. The provider shall store the following weapons in an inoperable condition in a locked area inaccessible to children:
  - a. Firearms;
  - b. Air guns, including BB guns;
  - c. Bows and cross-bows;
  - d. Stun guns;
  - e. Hunting slingshots;
  - f. Any other projectile weapon; and
  - g. Hunting knives.
2. Firearms, ammunition, and other weapons, including cross-bows, stun guns, air guns, and hunting knives are safeguarded to prevent unsafe or improper use. In addition:
  - a. Firearms are unloaded, trigger locked, and kept in a tamper-proof, locked storage container made of unbreakable material; and
  - b. Ammunition is maintained in locked storage that is separate from firearms.

**B.** OLR may approve a provider who is a foster parent applicant or foster parent who is also a law enforcement official, to carry a firearm when the provider:

1. Obtains documentation that the jurisdiction requires him or her to have ready and immediate access to the weapons at all times;
2. Supplies official documentation that he or she has been trained in the law enforcement protocols for the safe use and carrying of a firearm;
3. Adopts and follows a safety plan approved by OLR and the licensing agency; and
4. Stores the weapon according to the provisions of this Section when the weapon is not on their person.

**C.** Notwithstanding subsections (A) and (B), weapons are not permitted in a Child Welfare Agency residential group care facility or group foster home.**R21-8-107. Animals**The home shall meet the following standards concerning animals:

1. Animals kept on the premises do not pose a hazard due to behavior, venom, or disease.



2. OLR may require an assessment by a veterinarian to determine whether a pet poses a hazard if the animal displays signs of aggressive or abnormal behavior or of disease.
3. The provider shall vaccinate any pets required to be vaccinated by state or tribal law against diseases that can transmit to humans, including rabies.
4. All dogs older than six months have current rabies vaccination. Vaccination records are maintained in the home.

**R21-8-108. Storage of Medication**

**A.** The provider shall ensure:

1. Medication is maintained in a securely fastened and locked storage, with the exception of the following:
  - a. Medication that may be accessed by a foster child, as specified in that individual's case plan or service plan; and
  - b. Medication that must be readily and immediately accessible, such as an asthma inhaler or an autoinjector such as an epinephrine autoinjector, known as an Epi-pen.
2. Medication that may be unlocked under subsection (1)(a) or (1)(b) is safeguarded to prevent improper use.
3. Medication that must be refrigerated is safeguarded in locked storage, without preventing access to refrigerated food. This may be accomplished by storing refrigerated medication in a locked box within the refrigerator.

**B.** A Child Welfare Agency provider shall safeguard medications using a double-lock system. A locked box stored inside a locked cabinet is an example of a double-lock system.

**R21-8-109. Safe Appliances**

The provider shall ensure:

1. Safe and functioning appliances are available for food refrigeration and cooking, if applicable.
  - a. Safe and functioning refrigerators shall maintain food at or below a temperature of 41° F.
  - b. An outdoor cooking appliance that uses charcoal or gas shall not be used indoors.
2. Electrical lighting is available in bedrooms, living areas, and rooms used to provide services.
  - a. Lighting is sufficient to perform normal activities, and
  - b. Light sockets are equipped with light bulbs or safely covered to prevent electrical shock.
3. Adequate heating, cooling, and ventilation are available in bedrooms, living areas, and rooms used to provide services. Temperatures outside the range of 65° - 85° F are indicators of inadequate heating or cooling.
4. At least one operable telephone is available on the premises unless OLR has approved an alternative system for communication. Telephone includes cellular phones, digital phones, and phones with traditional land lines.
5. If the premises have a clothes dryer, the dryer is safely vented with a non-flammable vent hose.
6. If a portable heater is on the premises, it has a protective covering to keep hands and objects away from the heating element and, it is:
  - a. Electric;
  - b. UL approved;
  - c. Equipped with a tip-over shut-off switch;
  - d. Placed at least three feet from curtains, paper, furniture, and any flammable object when in use;
  - e. Not used as the primary source for heat in the setting; and
  - f. Not used in bedrooms.
7. A carbon monoxide detector-alarm is properly located according to manufacturer's instructions and functioning on each level of the premises that has an appliance or heating device using combustible fuel, including gas, oil, or wood. Such appliances or devices include fireplaces, wood stoves, gas stoves, and gas hot water heaters.

**R21-8-110. Electrical Safety**

The provider shall ensure:

1. Electrical cords are in good condition; no broken or frayed cords are in use.
2. Electrical panels and outlets are in good condition; no wiring is exposed, and covers are in place.
3. Extension cords are not used on a permanent basis.
4. Electrical outlets are not overloaded.
5. Major appliances are plugged directly into grounded outlets. Major appliances include refrigerators, freezers, dishwashers, stoves, ovens, washers, and dryers.
6. Mid-sized appliances, which include computers, televisions, and stereo equipment, are plugged into:
  - a. Grounded outlets, or
  - b. Power strips or surge protectors that are plugged into grounded outlets.

**R21-8-111. Water and Plumbing Requirements**

**A.** The provider shall ensure that a continuous source of safe drinking water is available to a foster child or child in a residential group care facility receiving care.

**B.** The home must meet the following standards concerning water:

1. If a home uses a non-municipal water source including private well water or another source of drinking water, the provider shall have the water tested for safety under subsection (B)(2).



2. If the home's water is from any source other than an approved public water supply, the foster parent shall obtain a written water analysis report, showing that the water is within acceptable state and federal standards for drinking water for the age of the children in care. The provider shall obtain the analysis and report from a laboratory certified by the Arizona Department of Health Services as part of the initial licensing process and before each renewal.
- C. The provider shall ensure that the sewage disposal for the setting is functioning. If the setting has a septic tank, it shall be in good working order, with no visible signs of leakage on the ground.
- D. The provider shall ensure that at least one working toilet, wash basin, and shower or tub is available for every seven persons living or receiving care in the home at the same time.

**R21-8-112. Fire Safety and Evacuation Plan Requirements**

The provider shall ensure:

1. The premises is free of obvious fire hazards, such as defective heating equipment, or improperly stored flammable materials. Household heating equipment must be equipped with appropriate safeguards, maintained as recommended by the manufacturer.
2. Flammables and combustibles are stored more than three feet from water heaters, furnaces, portable heaters, fireplaces, and wood-burning stoves.
3. If the premises has a working fireplace or wood-burning stove, it is protected by a fire screen sufficient to shield the room from open flames and flying embers.
4. A functioning fire extinguisher with a rating of "2A 10BC" or greater is available near the kitchen area. If the home has multiple levels at least one functioning fire extinguisher with a rating of "2A 10BC" or greater is available on each level.
5. At least one UL approved and working smoke detector is installed:
  - a. In the main living or program area of the setting;
  - b. In each bedroom, if overnight care is provided; and
  - c. On each level of a multiple-level setting.
6. A written emergency evacuation plan is developed and maintained in the home, to provide guidance on the safe and rapid evacuation of the home. An emergency evacuation plan shall:
  - a. Be reviewed with the child within 72 hours of placement in the home and posted in a prominent place in the home;
  - b. Identify multiple exits from the home;
  - c. Identify two routes of evacuation from each bedroom on every floor used by individuals residing in or receiving care in the home. At least one of the exit routes for these bedrooms leads directly to the outside of the home, but shall not lead into an area that serves as a pool enclosure;
  - d. Identify the location of fire extinguishers and fire evacuation equipment, including rope or chain ladders, and emergency lighting, as applicable;
  - e. Designate a safe central meeting place close to the home, known to the child, at a safe distance from potential danger;
  - f. Be maintained in the home to review with individuals residing in or receiving care in the home; and
  - g. Include the placement of equipment, such as a ladder, that can be safely used by the individuals residing in each upstairs bedroom that have been identified with fire exits.
7. All windows identified as fire exits, must have enough space for an adult to move through.
8. Each bedroom used by a foster or child in a residential group care facility receiving care or services has two exits to the outside.
  - a. One exit shall be a path through the premises and leading to a door that opens to the outside. A garage door that opens either manually by lifting or with an automatic opener shall not be accepted as an exit.
  - b. Another exit shall be a window or door within the bedroom that opens directly to the outside.
9. Premises authorized to provide care or services to five or more children shall train staff and children in evacuation procedures and conduct emergency drills at least every three months as prescribed in this subsection.
  - a. Practice drills shall include actual evacuation of children to safe areas, outside, and beyond the home.
  - b. Drills shall be held at random times and under varying conditions to simulate the possible conditions in case of fire or other disaster.
  - c. All persons in the home shall participate in the drill.
  - d. Records shall be maintained for each emergency drill and shall include:
    - i. Date and time of drill;
    - ii. Total evacuation time;
    - iii. Exits used;
    - iv. Problems noted; and
    - v. Measures taken to ensure that a foster child or a child in a residential group home facility understand the purpose of a drill and his or her responsibilities during a drill.
10. The exit routes for the home are clear of obstruction that could prevent safe and rapid evacuation.



- 11. The locks on exterior doors and windows, including the front door, screen doors, and bars on windows, are equipped with a quick release mechanism. A quick release mechanism is a lock that can be opened from inside the setting without special knowledge (such as a combination) or equipment (such as a key). The Department may grant an exception to this requirement for a double-key deadbolt on a door if:
  - a. There is breakable glass within 40 inches of the interior locking mechanism;
  - b. There is another exit with a quick release mechanism on the same level of the premises; and
  - c. The key for the deadbolt is permanently maintained in a location that is:
    - i. Within six feet of the locking mechanism;
    - ii. Accessible to all household members;
    - iii. Reviewed with persons residing in or receiving care in the home; and
    - iv. Identified on the emergency evacuation plan, specified in subsection (6).
- 12. The address for the home is posted and visible from the street, or the local emergency response team, such as the local fire department, is notified of the location of the home in writing, with a copy of this notification maintained in the home.
- 13. Providers must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home.

**R21-8-113. Pool Safety**

- A.** The provisions of this Section apply to each Child Welfare Agency residential group care facility and licensee.
- B.** For a home that has a pool, and provides care to a child six years of age or less, or an individual with a Developmental Disability, the provider shall ensure the following:
  - 1. That the pool complies with A.R.S. § 36-1681 and all local municipal codes to the extent not inconsistent with this Section.
  - 2. A fence or barrier meeting the following requirements is maintained between the pool and the home, or any building used to provide care and supervision:
    - a. The exterior side of the fence or barrier is at least five feet high;
    - b. If the barrier is a chain link fence or lattice, each opening in the mesh measures less than 1 3/4 inches horizontally. Chicken wire and other light gauge wire are prohibited as a primary fencing material for the pool;
    - c. If the barrier is a fence constructed of vertical bars or wooden slats, the openings between bars or slats measure less than four inches;
    - d. The exterior side of the barrier is free of hand holds or foot holds or other means that could be used to climb over it and if it has a horizontal component spaced at least 45 inches, measured vertically;
    - e. The gate to the enclosure is locked, except when in use and there is an adult within the enclosure to supervise the pool and spa area;
    - f. The connection between the panels of the fence cannot be separated without a key or a tool;
    - g. The fence is secured to the ground or has sufficient tension to prevent the fence from being lifted more than four inches from the ground;
    - h. If the home or building to provide care or supervision constitutes part of the enclosure:
      - i. The enclosure does not interfere with safe egress from the home;
      - ii. A door from the home does not open within the pool enclosure. Such a door cannot be opened by a foster child or child in a residential group care facility because it is either permanently locked or barricaded. Any key shall not be accessible to a foster child or child in a residential group care facility;
      - iii. A window located in a room that is designated as a bedroom for a foster child or child in a residential group care facility shall not open into the pool enclosure; and
      - iv. Other windows that open into the pool enclosure are permanently secured to open no more than four inches;
  - 3. A pool shall have its methods of access through the barrier equipped with a safety device, such as a bolt lock:
    - a. Gates should be self-closing and self-latching, maintained in good repair, and open out or away from the pool.
    - b. The gate latch is at least 54" above the ground and is equipped with a key or combination lock.
  - 4. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.
  - 5. Hot tubs and spas must have safety covers that are locked when not in use.
  - 6. Hot tubs and spas that are drained must be disconnected from the power and water source and have safety covers that are always locked.
- C.** The Department shall not approve a locked cover in lieu of the fence required under subsection (B).
- D.** After a fence has been inspected and approved by OLR as meeting the standards required under subsection (B), the provider shall ensure the fence is not dismantled or moved for as long as the provider is licensed by OLR.
- E.** Regardless of the age of the foster child or child in a residential group care facility living in the home, if the pool is deeper than six feet, the care provider shall ensure the following rescue equipment is available in the pool area:
  - 1. A shepherd's crook attached to a pole; and
  - 2. A ring buoy attached to a rope that measures at least half of the distance across the pool plus 10 feet.
- F.** A drained pool is a safety hazard. The provider shall comply with this Section or R21-8-105, if applicable.



**NOTICE OF FINAL EXEMPT RULEMAKING**

**TITLE 21. CHILD SAFETY**

**CHAPTER 9. DEPARTMENT OF CHILD SAFETY – ADOPTION AGENCY LICENSING**

[R15-189]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
Article 1	New Article
R21-9-101	New Section
Article 2	New Article
R21-9-201	New Section
R21-9-202	New Section
R21-9-203	New Section
R21-9-204	New Section
R21-9-205	New Section
R21-9-206	New Section
R21-9-207	New Section
R21-9-208	New Section
R21-9-209	New Section
R21-9-210	New Section
R21-9-211	New Section
R21-9-212	New Section
R21-9-213	New Section
R21-9-214	New Section
R21-9-215	New Section
R21-9-216	New Section
R21-9-217	New Section
R21-9-218	New Section
R21-9-219	New Section
R21-9-220	New Section
R21-9-221	New Section
R21-9-222	New Section
R21-9-223	New Section
R21-9-224	New Section
R21-9-225	New Section
R21-9-226	New Section
R21-9-227	New Section
R21-9-228	New Section
R21-9-229	New Section
R21-9-230	New Section
R21-9-231	New Section
R21-9-232	New Section
R21-9-233	New Section
R21-9-234	New Section
R21-9-235	New Section
R21-9-236	New Section
R21-9-237	New Section
R21-9-238	New Section
R21-9-239	New Section
R21-9-240	New Section

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

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

Implementing statute: A.R.S. §§ 8-120, 8-121, 8-126, 8-127, 8-129, 8-130, 8-132, 8-134, and 46-141.

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



- 3. **The effective date of the rule and the agency’s reason it selected the effective date:**  
January 24, 2016
- 4. **A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:**  
Notice of Public Information: 21 A.A.R. 1838, September 30, 2015  
Notice of Oral Proceeding: 21 A.A.R. 1866, September 11, 2015
- 5. **The agency’s contact person who can answer questions about the rulemaking:**  
Name: Carrie Senseman, Lead Rules Analyst  
Address: Arizona Department of Child Safety  
Policy Office  
3003 N. Central Ave., 23rd Floor  
Phoenix, AZ 85012  
P.O. Box 6030, Site Code: C010-23  
Phoenix, AZ 85005-6030  
Telephone: (602) 255-2534  
Fax: (602) 255-3264  
E-mail: csenseman@azdes.gov  
Web site: <https://dcs.az.gov/about/dcs-rules-rulemaking>
- 6. **An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**  
A.R.S. § 8-120 lists the provisions of the responsibility of an adoption agency to keep files, records and reports confidential. A.R.S. § 8-121 further describes restrictions for accessing, receiving or making use of information derived directly or indirectly from records, reports or other papers compiled for adoption proceedings. A.R.S. § 8-126 gives the Department the authority to license adoption agencies and charge reasonable fees for licensure. A.R.S. § 8-127 gives authority to a licensed adoption agency to prepare a petition for adoption. A.R.S. § 8-129 requires health and genetic history information on each adoptive child to be provided to prospective adoptive parents and maintained for ninety-nine years. A.R.S. § 8-130 restricts the provision of a consent to adoption of a child to a licensed adoption agency and gives the Department and a licensed adoption agency the authority to conduct both agency placement adoptions and direct placement adoptions. A.R.S. § 8-132 covers the confidentiality of the personal information concerning a person who applies for or who receives an adoption agency license and describes under what circumstances this information may be released.  
A.R.S. § 8-134 describes who may use a confidential intermediary and the role and limitations of a confidential intermediary. If the Department is supplying the information to the confidential intermediary, then the actual and reasonable costs shall be paid to the Department. A.R.S. § 46-141 requires as a condition of employment that all personnel, who provide services directly to juveniles, whether paid or not, have a valid Level One fingerprint clearance card from the Arizona Department of Public Safety.  
Laws 2014, Second Special Session, Ch. 1, § 158 exempts the Department from the rulemaking requirements of in A.R.S. Title 14, Chapter 6 until November 28, 2015, in order to “Adopt rules to implement the purposes of the Department and the duties and powers of the director.” The Department received an exception from the Governor’s rulemaking moratorium, established by Executive Order 2015-01, for this rulemaking and has added Articles 1 and 2. The rules conform to the current rulemaking format and style requirements of the Office of the Secretary of State.
- 7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
None
- 8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
- 9. **The summary of the economic, small business, and consumer impact, if applicable:**  
Not applicable
- 10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):**  
Not applicable
- 11. **An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**  
The Department’s exemption from rulemaking required the Department to provide public notice and an opportunity for public comment in writing and at two or more public comment hearings. The exemption did not require the



Department to post its responses to the public comments. However, the Department provides the following information on the public comment hearings and public comment.

Public hearings on these rules were held on September 21, 2015 in Tucson and September 22, 2015 in Phoenix. Attendees were provided the opportunity to provide oral or written comments. A copy of each rule draft was posted to the Department's website from August 18, 2015 to September 23, 2015 along with an on-line survey to obtain public comments. Comments were received at the public hearings, on-line and in the U.S. Mail. Examples of comments included requests for greater flexibility and clarification of educational and certification requirements for staff, and suggestions for improved language concerning renewal of licenses and the conditions of written agreements with birth parents.

An additional meeting was held with stakeholders on October 13, 2015 to obtain clarification and support of the comments that were incorporated where applicable into the final rule package.

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

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

An individual license is required to operate an adoption agency. Adoption agency licenses are exempt under A.R.S. § 41-1037 and do not require a general permit.

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

42 U.S.C. 671, 42 U.S.C. 671a, and 45 CFR 1356.30. The rules are not more stringent than federal law.

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

Not applicable

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

None

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

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

**15. The full text of the rules follows:**

**TITLE 21. CHILD SAFETY**

**CHAPTER 9. DEPARTMENT OF CHILD SAFETY – ADOPTION AGENCY LICENSING**

**ARTICLE 1. DEFINITIONS**

Section  
R21-9-101. Definitions

**ARTICLE 2. ADOPTION AGENCY LICENSING REQUIREMENTS**

Section  
R21-9-201. Who Shall Be Licensed  
R21-9-202. Adoption Agency License; Initial Application Package; Fee  
R21-9-203. Additional Requirements for Licensing; Out-of-state and Foreign Adoption Agencies  
R21-9-204. Department Procedures for Processing License Applications; Licensing Time Frames  
R21-9-205. License: Issuance; Denial  
R21-9-206. License: Term; Non-transferability  
R21-9-207. Application for License Renewal; Fee  
R21-9-208. Renewal License: Issuance  
R21-9-209. Amended License  
R21-9-210. Governing Body  
R21-9-211. Adoption Agency Administrator  
R21-9-212. Social Services Director  
R21-9-213. Social Workers  
R21-9-214. Adoption Agency Employees: Hiring; References; Fingerprinting  
R21-9-215. Adoption Agency Volunteers; Interns  
R21-9-216. Personnel Records  
R21-9-217. Training Requirements  
R21-9-218. Contracted Services  
R21-9-219. Staffing Ratios



- R21-9-220. Operations Manual
- R21-9-221. Adoption Agency Operations Budget; Financial Records
- R21-9-222. Annual Financial Audit
- R21-9-223. Insurance Coverage
- R21-9-224. Physical Space Requirements; Transportation of a Child
- R21-9-225. Protecting Confidentiality of Adoption Records
- R21-9-226. Recordkeeping Requirements: Adoptive Children
- R21-9-227. Recordkeeping Requirements: Adoptive Parents
- R21-9-228. Reporting Requirements: Abuse; Adoption Agency Change; Change of Circumstances of a Child or Family
- R21-9-229. Closure of Adoption Agency; Record Requirements
- R21-9-230. Birth Parent; Service Agreement; Prohibitions
- R21-9-231. Adoption Fees; Reasonableness
- R21-9-232. Adoption Fee Agreement
- R21-9-233. Monitoring; Inspections and Interviews; Compliance Audit
- R21-9-234. Complaints; Investigations
- R21-9-235. Noncompliance Status; Corrective Action Plan
- R21-9-236. Suspension
- R21-9-237. Revocation
- R21-9-238. Adverse Action: Procedures
- R21-9-239. Appeals
- R21-9-240. International Adoptions

**ARTICLE 1. DEFINITIONS**

**R21-9-101. Definitions**

The definitions contained in A.R.S. § 8-101 and R21-5-301 apply in this Chapter. In addition, and where inconsistent with the definitions in R21-5-301, the following definitions apply in this Chapter:

1. “Adoption agency applicant” means the individual completing an application for a license to operate an adoption agency in Arizona on behalf of the individual or on behalf of the adoption agency. “Adoption agency applicant” also includes the adoption agency for which the individual is applying.
2. “Child restraint system” means an add-on child restraint system, a built-in child restraint system, a factory-installed built-in child restraint system, a rear-facing child restraint system, or a booster seat.
3. “Child welfare field” means an area of endeavor that provides a set of services designed to protect children and encourage family stability. These typically include investigation of alleged child abuse and neglect, foster care, adoption services and services aimed at supporting at-risk families so they can remain intact.
4. “Client” means a prospective adoptive parent and the child who is or would be the subject of an adoption performed by the adoption agency.
5. “Human services field” means any area of study that moves the human experience forward; including, psychology, sociology, social work, medicine, and education.
6. “Office of Licensing and Regulation” or “OLR” means the administration within DCS that is responsible for reviewing and evaluating applications for licensure; supervising and monitoring licensees; and completing all official licensing actions, including issuing, denying, amending, suspending, and revoking a license.
7. “Person” means a corporation, company, partnership, firm, association, or society, as well as a natural person.

**ARTICLE 2. ADOPTION AGENCY LICENSING REQUIREMENTS**

**R21-9-201. Who Shall Be Licensed**

- A.** Only the following may perform the adoption services listed in subsection (B):
  1. A person licensed as an adoption agency;
  2. An employee of or an independent contractor for an adoption agency;
  3. A person acting under the direct supervision and control of an adoption agency; or
  4. The Department under A.R.S. § 8-131.
- B.** Only the persons or entities listed in subsection (A) may perform the following adoption services:
  1. Recruiting a birth parent to place a child through a particular adoption agency;
  2. Accepting a birth parent’s relinquishment and consent to adoption;
  3. Accepting physical custody of a child for placement into an adoption placement;
  4. Placing a child in an adoptive home;
  5. Monitoring, supervising, or finalizing an adoption placement; and
  6. Providing networking or matching services for a birth parent, an adoptive parent, or a child.
- C.** Notwithstanding subsections R21-9-201(A) and (B), attorneys licensed to practice law in the state of Arizona may participate in direct placement adoptions to the extent allowed by A.R.S. Title 8, Chapter 1, Article 1.

**R21-9-202. Adoption Agency License; Initial Application Package; Fee**

- A.** A person who wants to operate an adoption agency shall initiate the licensing process by completing an application package for an adoption agency license.
- B.** A complete application package for an initial adoption agency license shall contain the information and the supporting



documentation listed in this subsection:

1. Identification and background information, including the following information for the adoption agency, facility, and administrators:
  - a. Name, address, telephone, and fax numbers for the adoption agency and all offices operated by the adoption agency;
  - b. Name, title, business address, telephone and fax numbers, and email address of:
    - i. The person who serves as the adoption agency administrator as prescribed in R21-9-211;
    - ii. The person who serves as the Social Services Director as prescribed in R21-9-212;
    - iii. The person with delegated authority to act when the adoption agency administrator is absent;
    - iv. The person in charge of each separate office;
    - v. The registered agent, if applicable; and
    - vi. Persons holding at least a 10 percent ownership interest in the adoption agency applicant;
  - c. The educational qualifications and work history for each person identified in R21-9-214, with that person's attached resume or employment application;
  - d. A list of the members of the adoption agency's governing body required by R21-9-210, including name, address, position in the adoption agency, term of membership, and any relationship to the adoption agency applicant;
  - e. If applicable, a written description of any proceedings pending or filed, brought against the adoption agency applicant or a person listed in R21-9-210 through R21-9-214, adoption agency employees, partners, or independent contractors, including those held in this state or another state or country; for denial, suspension, or revocation of a license or certificate for provision of:
    - i. Adoption services; or
    - ii. Social services, including child welfare, child care, or any other programs or services to children, elderly, or vulnerable adults; and
  - f. If applicable, a written description of any litigation in which the adoption agency applicant or a person listed in R21-9-210 through R21-9-214 is or has been a party, including, collection matters and bankruptcy proceedings, during the 10 years preceding the date of application for the adoption agency license.
2. Business organization.
  - a. An organizational chart for the adoption agency and each separate office, showing administrative structure, lines of authority, and staff;
  - b. Business organization documents appropriate to the adoption agency applicant, including:
    - i. Articles of incorporation,
    - ii. By-laws,
    - iii. Articles of organization, or
    - iv. Partnership documents, such as the Partnership Agreement;
  - c. Annual reports for the preceding three years if the adoption agency has been in existence for three or more years;
  - d. For corporations, or limited liability companies, a certificate of good standing from the Arizona Corporation Commission;
  - e. A copy of any license or authorization to perform adoption services in a foreign country; and
  - f. A consent allowing any out-of-state or foreign licensing authority to release information on the adoption agency applicant to OLR.
3. Staff.
  - a. A list of the adoption agency applicant's paid or unpaid staff, including:
    - i. Name,
    - ii. Position or title,
    - iii. Degrees,
    - iv. Certificates,
    - v. Licenses held,
    - vi. Business address,
    - vii. Date of hire,
    - viii. Date of submission for fingerprinting and criminal background clearance, and
    - ix. If contracted with the Department, a Central Registry check;
  - b. Obtain and provide to the Department evidence that all staff, interns, and volunteers have submitted fingerprints and criminal background information as prescribed in A.R.S. § 46-141, R21-9-214, and R21-9-215.
4. Financial Stability.
  - a. A written, proposed operating budget for startup and a projected or annual budget for the first year of operation;
  - b. Verifiable documentation of funds available to pay start-up costs; the funds shall be in the form of cash or written authorization for a line of credit;



- c. Verifiable documentation of funds available to pay operating expenses for the first three months of operations; the funds shall be in the form of cash or written authorization for a line of credit;
  - d. Verifiable documentation of financial resources to operate in accordance with the proposed operating budget for the remaining nine months of the licensing year; the resources may include:
    - i. Cash.
    - ii. Contracts for placement.
    - iii. Donations.
    - iv. Letters of commitment from financial backers or investors.
    - v. Grants, and
    - vi. Authorization for a line of credit;
  - e. If the adoption agency applicant, the adoption agency administrator, a Board Member, or any adoption agency employee or partner has operated any adoption agency in this state or any other state during the past 10 years, the most recent financial statement and financial audit for that adoption agency, unless the most recent statement or audit is more than 10 years old; and
  - f. A certificate of insurance, or letter of commitment from an insurer, showing that the adoption agency applicant has insurance coverage as prescribed in R21-9-223.
5. Program.
- a. Informational, marketing, or advertising material about the adoption agency;
  - b. Program description, including:
    - i. All adoption services the adoption agency applicant intends to provide;
    - ii. The fee the adoption agency applicant will charge for each service;
    - iii. The cost to the adoption agency applicant of providing each service;
    - iv. The time in the adoption process when the adoption agency applicant will require a client to pay the fee described in R21-9-231;
    - v. The anticipated number of clients the adoption agency applicant will serve; and
    - vi. The methods the adoption agency applicant will use to recruit birth parents and prospective adoptive parents; and
  - c. A written explanation of how the adoption agency applicant will provide adoption services, including:
    - i. The number and description of staff who will provide the service, and
    - ii. Staff training requirements.
6. Documentation, Forms, and Notices. Samples of all documents, forms, and notices, which the adoption agency applicant will use with or provide to a client, including:
- a. Adoption agency application for services;
  - b. Adoptive parent certification application;
  - c. Fee policy and schedule as prescribed by R21-9-231;
  - d. Sample birth parent relinquishment and consent form;
  - e. Informational or advertising brochures;
  - f. Sample fee agreement;
  - g. Sample birth parent agreement letter;
  - h. Intake form;
  - i. Sample case file;
  - j. Court report format; and
  - k. Statistical report.
7. Sample Files. A sample of the type of filing format the adoption agency applicant will utilize for personnel files as prescribed in R21-9-216, and client files as prescribed in R21-9-226 and R21-9-227.
8. Policies and Procedures. Copies of the adoption agency applicant's internal policies and operations manual.
9. Physical site and environment.
- a. The floor plan for each office or location designated for conducting private discussions, interviews, and meetings;
  - b. A description of the adoption agency applicant's computer security system and the adoption agency applicant's confidentiality safeguards; and
  - c. Registration and inspection certificates for all vehicles used to transport a client or children.
10. Miscellaneous.
- a. A signed, written statement authorizing OLR to investigate the adoption agency applicant;
  - b. The signature, under penalty of perjury, of the adoption agency administrator or authorized person submitting the application, attesting to the truthfulness of the information contained in the application;
  - c. The date of application; and
  - d. Board or partnership meeting minutes for the past three years if the adoption agency has been in existence for three or more years.
11. Fee. Pay a non-refundable, initial application fee of \$400.



C. An adoption agency that does not have or maintain all or part of the supporting documentation listed in this Section shall so indicate in a written statement filed with the application.

**R21-9-203. Additional Requirements for Licensing: Out-of-state and Foreign Adoption Agencies**

A. An out-of-state adoption agency or an adoption agency that conducts foreign adoptions that wishes to become licensed in Arizona as an adoption agency shall comply with all requirements of R21-9-202.

B. In addition to the documentation required by R21-9-202, the out-of-state or foreign adoption agency applicant shall file the following documents with OLR:

1. A copy of each license or authorization to perform adoption services the adoption agency applicant holds in states other than Arizona or in a foreign country;
2. A signed, written consent allowing any out-of-state or foreign licensing authority to release information on the adoption agency applicant to OLR; and
3. A written description of any license suspension or revocation proceedings pending, filed, or brought against:
  - a. The adoption agency applicant;
  - b. The adoption agency applicant's owner, if the adoption agency applicant is acting as an individual or a sole proprietor;
  - c. The partners of the adoption agency applicant, if the adoption agency applicant is a partnership; and
  - d. The directors, officers, and shareholders holding more than a 10 percent ownership interest in the adoption agency applicant, if the adoption agency applicant is a corporation.

**R21-9-204. Department Procedures for Processing License Applications: Licensing Time Frames**

A. In this Section, a complete application package means:

1. For an initial license, the items listed in R21-9-202 for an in-state adoption agency and R21-9-203 for an out of state adoption agency or an adoption agency engaged in foreign adoptions; or
2. For a renewal license, the items listed in R21-9-207.

B. Within 15 days of receiving an initial or renewal license application package, OLR shall conduct an administrative review to determine whether all required documentation and information has been submitted. Within the 15-day administrative review time-frame:

1. If the application is complete, OLR shall immediately move the application forward for a substantive review; or
2. If the application is incomplete, OLR shall issue a Notice of Incomplete Application to the adoption agency applicant containing a list of items and information needed to complete the application.
  - a. The adoption agency applicant shall have 60 days to supply the missing items or information to OLR.
  - b. The time-frame for the administrative completeness review shall be suspended from the date OLR issues the Notice of Incomplete Application to the date that OLR receives the missing item or information.
  - c. If the adoption agency applicant does not supply the requested items or information within 60 days of the date of the Notice of Incomplete Application, OLR shall close the file. Once closed, the adoption agency applicant may reapply for licensure.
  - d. If the adoption agency applicant supplies the required items and information to OLR within 60 days, OLR shall conduct a substantive review of the application.

C. An adoption agency applicant whose file has been closed under subsection (B)(2)(c) and who reapplies no later than 90 days after the date of the notice closing the application, may reopen the application provided:

1. The Adoption agency applicant schedules a conference with OLR, and
2. The Adoption agency applicant provides to OLR the missing information or items identified in the Notice of Incomplete Application.

D. Within the 90 days following the administrative completeness review of an application, and if the application is complete, OLR shall complete a substantive review to evaluate the adoption agency applicant's fitness for licensure. Within the 90-day substantive review time-frame, OLR:

1. May request that the adoption agency applicant provide additional information if needed to evaluate the suitability of the adoption agency applicant for licensure.
  - a. The adoption agency applicant shall have an additional 15 days to provide the information to OLR.
  - b. The time-frame for the substantive review shall be suspended from the date OLR requests additional information to the date OLR receives the information.
2. Shall make the licensing decision under R21-9-205.

E. Within an overall time-frame of 105 days upon receipt of a complete application, OLR shall:

1. Complete an administrative review of an application.
2. Complete a substantive review of an adoption agency applicant's fitness, and
3. Notify the adoption agency applicant of the decision to issue or deny a license.

F. For the purpose of A.R.S. § 41-1073, OLR establishes the following licensing time-frames for both an initial and renewal license:

1. Administrative completeness review time-frame: 15 days;
2. Substantive review time-frame: 90 days; and
3. Overall time-frame: 105 days.



**R21-9-205. License: Issuance; Denial**

- A.** Prior to issuing a license to an adoption agency applicant, OLR shall:
  - 1. Review the application package;
  - 2. Inspect the adoption agency applicant’s place of business, records, accounting records, and system for client files;
  - 3. Interview the adoption agency applicant’s staff, as necessary to familiarize the OLR representative with the adoption agency applicant’s operations; and
  - 4. For out-of-state adoption agency applicants, and foreign adoption agencies, verify that the adoption agency applicant is licensed out-of-state or authorized to conduct foreign adoptions, as applicable, and investigate any complaints asserted against the adoption agency applicant in other states or countries.
- B.** Prior to issuing a license, OLR may submit the adoption agency applicant’s start-up, operating, or annual budget required in R21-9-202 for audit verification.
- C.** OLR may issue a license to an adoption agency applicant who:
  - 1. Has complied with all application and inspection requirements of this Chapter; and
  - 2. Demonstrates that it:
    - a. Has sufficient capital to pay all start-up costs;
    - b. Has sufficient capital, personnel, expertise, facilities, and equipment to provide the services it plans to offer;
    - c. Does not intend to charge unreasonable fees; and
    - d. Complies with the requirements of this Chapter and A.A.C. Title 21, Chapter 5, Article 4.
- D.** OLR may deny a license to:
  - 1. An adoption agency applicant that had a license revoked by any state or foreign country;
  - 2. An adoption agency applicant that employs personnel whose fingerprint background check shows that the employee has been convicted of or is awaiting trial on an offense listed in A.R.S. § 46-141;
  - 3. An adoption agency applicant that does not comply with one or more of the standards listed in subsection (C);
  - 4. An adoption agency applicant that has intentionally or recklessly jeopardized the well-being of its client;
  - 5. An adoption agency applicant that has a history or pattern of violations of applicable adoption statutes or rules; or
  - 6. An adoption agency applicant that violates the ICPC or ICWA during a licensing year.
- E.** When OLR denies a license, OLR shall send the adoption agency applicant written notice explaining the reason for denial, and the adoption agency applicant’s right to seek a fair hearing.

**R21-9-206. License: Term; Non-transferability**

- A.** OLR shall issue a license only to the adoption agency for which application is made and for the location shown on the application.
- B.** A license expires one year from the date of issuance.
- C.** A license shall not be transferred or assigned and shall expire upon a change in adoption agency ownership.
- D.** For the purpose of this Section, a change in ownership shall include the following events:
  - 1. Sale or transfer of the adoption agency.
  - 2. Bulk sale or transfer of the adoption agency’s assets or liabilities.
  - 3. Placement of the adoption agency in the control of a court appointed receiver or trustee.
  - 4. Bankruptcy of the adoption agency.
  - 5. Change in the composition of the partners of an adoption agency organized as a partnership.
  - 6. Sale or transfer of a controlling interest in the stock of a corporate adoption agency, or
  - 7. Loss of an adoption agency’s nonprofit status.

**R21-9-207. Application for License Renewal; Fee**

- A.** No earlier than 90 days and no later than 45 days prior to the expiration date of a license, an adoption agency may apply to OLR for license renewal.
- B.** The renewal application shall be on a Department form containing the information listed in R21-9-202 and R21-9-203, as applicable.
- C.** The adoption agency shall submit evidence that each current agency employee has obtained a new fingerprint clearance card every six years following original clearance.
- D.** An adoption agency shall submit copies of the supporting documents listed in R21-9-202 if the adoption agency has changed, amended, or updated such documents since the adoption agency last renewed its license.
- E.** With a renewal application, the adoption agency shall also submit a renewal fee of \$225 and the following documentation:
  - 1. A current financial statement;
  - 2. A copy of the adoption agency’s current operating budget and a recent audit report required by R21-9-222 or if applicable, the documentation required by R21-9-222 subsection (C);
  - 3. Copies of any written complaints the adoption agency has received about its performance during the expiring license year; and
  - 4. A written description of any changes in program services or locations, or the population served by the adoption agency.

**R21-9-208. Renewal License: Issuance**

- A.** OLR shall process a renewal application package pursuant to the procedures described in R21-9-204 and R21-9-205.



- B.** In addition to conducting an investigation as prescribed in R21-9-205, OLR may:
1. Interview adoption agency clients and references.
  2. Observe adoption agency staffings, and
  3. Conduct field visits to the adoption agency offices.
- C.** In determining whether to renew a license, OLR may consider the licensee's past history from other licensing periods, and shall consider a repetitive pattern of violations of applicable adoption statutes or rules as evidence that the adoption agency is unable to meet the standards for obtaining a license.
- D.** OLR may renew an adoption agency's license when the adoption agency:
1. Demonstrates that it meets the standards described in this Chapter.
  2. Has complied with the requirements of this Article and A.A.C. Title 21, Chapter 5, Article 4 during the expiring period of licensure, and
  3. Has corrected any prior circumstances that resulted in non-compliance status.

**R21-9-209. Amended License**

- A.** An adoption agency that seeks to change its name, address, or offices, without a change in ownership, shall apply to OLR for an amended license at least 14 days prior to the effective date of the change.
- B.** The application shall be in writing and shall specify the information to be changed.
- C.** So long as the change does not cause the adoption agency to fall out of compliance with the standards listed in this Article and A.A.C. Title 21, Chapter 5, Article 4, OLR shall issue an amended license.
- D.** The amended license shall expire at the end of the adoption agency's current licensing year.

**R21-9-210. Governing Body**

- A.** The adoption agency shall have a governing body to oversee the operations, policies, and practices of the adoption agency and its facilities.
- B.** The governing body shall be:
1. The board of directors for any adoption agency formed as a corporation;
  2. The individual owner of any adoption agency that is a sole-proprietorship;
  3. The members of a limited liability company; or
  4. The partners in a partnership.
- C.** The governing body shall:
1. Establish the adoption agency's policies and oversee the implementation of those policies;
  2. Ensure that the adoption agency has the capital, physical facilities, staff, and equipment to effectively implement the adoption agency's policies and adoption program;
  3. Ensure that the adoption agency complies with:
    - a. All legal agreements to which the adoption agency is a party; and
    - b. All relevant federal, state, and local laws;
  4. Review and approve the adoption agency's annual operating budget required by R21-9-221 and the annual audit required by R21-9-222, or, if applicable, the documentation required by R21-9-222 subsection (C); and
  5. Notify OLR before making any substantial changes to the adoptions program set out in the adoption agency's operations manual.
- D.** The adoption agency shall advise OLR in writing of any changes in composition of the governing body within 30 days of the change.

**R21-9-211. Adoption Agency Administrator**

- A.** The adoption agency shall have an administrator who is responsible for the adoption agency's business operations.
- B.** The Administrator shall have the education and experience described in this subsection.
1. A bachelor's degree from an accredited college or university and two years of professional experience in a human services field, one year of which shall have been in a supervisory or administrative position;
  2. A master's or doctorate degree from an accredited graduate school in business, public administration, or a human services field, and one year of professional experience in the human services field; or
  3. Five years of experience as the administrator in a program in a human services field.
- C.** The Administrator shall:
1. Oversee development and implementation of the adoption agency's policy and procedures for program and fiscal operations;
  2. Ensure that the adoption agency achieves and maintains compliance with the requirements of this Article;
  3. Oversee hiring, evaluation, and discharge of adoption agency personnel in accordance with the adoption agency's established personnel policies and this Article; and
  4. Establish and supervise working relationships with other social service agencies within the community.
- D.** An Administrator who directly supervises adoption activities shall also meet the requirements for a social services director prescribed in R21-9-212.

**R21-9-212. Social Services Director**

- A.** The adoption agency shall have a social services director who is responsible for the adoption agency's casework and family services.
- B.** The social services director shall have the following education and experience:



- 1. A bachelor’s degree in social work or a related human services field from an accredited college or university and three years of professional experience in services to children and families, two years of which shall be in adoption services;
- 2. A master’s degree in social work or a related human services field from an accredited college or university and a minimum of two years of professional experience in services to children and families; or
- 3. Five years of experience as the director in a program in a child welfare field.
- C. The social services director shall, either personally or through a designee:
  - 1. Supervise, manage, train, and evaluate all social work staff members and consultants;
  - 2. Approve decisions regarding family and child eligibility for service, maternity and child care, transportation and placement arrangements, finalization, and any other changes in a child’s legal status; and
  - 3. Implement the adoption agency’s adoption program and services.
- D. If the social services director delegates responsibility under subsection (C), the social services director shall personally supervise the designee and shall oversee the performance of the duties described in subsection (C).
- E. If the social services director performs the duties of an adoption agency administrator, the director shall also meet the requirements for an adoption agency administrator prescribed in R21-9-211.

**R21-9-213. Social Workers**

- A. The adoption agency shall have social workers sufficient to meet the ratio requirements prescribed in R21-9-219.
- B. A social worker shall have the following qualifications:
  - 1. A bachelor’s degree in social work or a related human services field from an accredited college or university and two years of professional experience in a human services field;
  - 2. A master’s degree in social work or in a related human services field from an accredited college or university;
  - 3. An associate’s or a two-year degree from an accredited educational institution in a human services or child welfare field and five years’ experience engaged in the activities listed in subsection (C); or
  - 4. Ten years experience in a human services or a child welfare field engaged in the activities listed in subsection (C).
- C. A social worker shall:
  - 1. Maintain or supervise the maintenance of up-to-date case records on cases assigned to the worker;
  - 2. Prepare certification and placement reports and home studies for adoptive applicants and parents, and such other reports as the court may require; and
  - 3. Provide pre-placement, placement, post-placement, or post-adoption services to a client.

**R21-9-214. Adoption Agency Employees: Hiring; References; Fingerprinting**

- A. An adoption agency shall obtain an application for employment or a resume from each employee, or contracted employee. The application or resume shall contain, at a minimum, the following information on the applicant:
  - 1. Name and current address and telephone number;
  - 2. Educational history;
  - 3. Degrees or certifications held;
  - 4. Work history for five years prior to the date of the application, and the reasons for leaving each prior job;
  - 5. A summary of all prior experience the applicant has had in the area for which the applicant is seeking employment;
  - 6. A minimum of three professional references, preferably of prior or current supervisors;
  - 7. A minimum of three personal references; and
  - 8. A list of any criminal convictions, excluding minor traffic violations.
- B. An adoption agency shall not hire an applicant for employment until:
  - 1. The adoption agency has personally contacted at least two of the applicant’s professional references and one of the applicant’s personal references;
  - 2. The adoption agency has verified that the applicant has the skills and training necessary to perform the task for which the adoption agency is hiring the applicant;
  - 3. The applicant has submitted to a fingerprint and criminal records check as required by A.R.S. § 46-141 and A.A.C. Title 21, Chapter 1, Article 4; and
  - 4. If contracted with the Department, the applicant has passed a Central Registry check.
- C. The adoption agency shall not knowingly hire or retain any staff, member, including a volunteer or intern, who is awaiting trial on, or has been charged with, been convicted of, pled guilty to, or entered into a plea agreement regarding an offense listed in A.R.S. § 46-141.
- D. The adoption agency shall ensure that any staff required to have a fingerprint clearance card shall obtain a new card every six years after initial issuance.
- E. The adoption agency shall have written job descriptions for all employee and volunteer positions in the adoption agency. The job descriptions shall include the essential functions of the job and any minimum qualifications or training required for the position.

**R21-9-215. Adoption Agency Volunteers; Interns**

- An adoption agency that uses volunteers or student interns shall follow the requirements of this Section.
  - 1. An appropriate employee shall directly supervise each volunteer or intern. As used in this subsection, the term “appropriate” shall mean adoption agency personnel with skills and training to guide the volunteer or intern in the performance of the designated tasks.



2. The adoption agency shall subject each volunteer or intern who renders direct services to a client, to the same fingerprint clearance card requirements and reference checks the adoption agency performs on adoption agency employees under R21-9-214.
3. For each volunteer or intern, the adoption agency shall maintain a record of fingerprint clearance, reference check information, and any training provided. The adoption agency shall retain the record for three years following the volunteer's or intern's termination with the adoption agency.

**R21-9-216. Personnel Records**

- A.** The adoption agency shall maintain a personnel file for each adoption agency employee. The file shall contain:
1. The employee's resume or written application for employment;
  2. Documentation of the reference checks required by R21-9-214 and R21-9-215;
  3. Evidence of a fingerprint clearance card and criminal records clearance;
  4. Results of a Central Registry check;
  5. A record of the expiration date and number of the employee's driver's or chauffeur's license, if the employee transports a client;
  6. Copies of the employee's professional credentials or certifications, if relevant to the employee's job functions;
  7. Documentation of initial and ongoing training the employee has received;
  8. Periodic job performance evaluations; and
  9. Dates of employment and separation, and reasons for separation.
- B.** The adoption agency shall maintain employee personnel records for at least three years following the employee's separation from the adoption agency.

**R21-9-217. Training Requirements**

- A.** An adoption agency shall provide initial and ongoing training for professional employees.
1. Initial training shall include orientation to the adoption agency and any of the adoption agency's and the Department's policies and procedures that are relevant to the employee's job.
  2. Ongoing training shall include a minimum of 14 hours of annual training in the following, or related, subject areas:
    - a. Adoption statutes and rules,
    - b. Adoption agency and Department policies and procedures,
    - c. Confidentiality, and
    - d. The specific subject matter of the employee's job.
- B.** The adoption agency shall document all training in the employee's personnel file.
- C.** As used in this Section, "professional employee" shall mean any person who renders services directly to a client.

**R21-9-218. Contracted Services**

- A.** When an adoption agency provides adoption services through persons who are not adoption agency employees, volunteers, or interns, the adoption agency shall retain only external professionals or consultants who are certified, licensed, or otherwise meet the qualifications described in A.A.C. Title 21, Chapter 5, Article 4, to provide such services.
- B.** The adoption agency shall not require a client to use medical, legal, psychological, psychiatric, or other professionals or consultants used or recommended by the adoption agency. The adoption agency may use consultants or persons selected by the adoption agency's client, so long as the consultant designated by the client has the education, experience, or certification required to render the service.

**R21-9-219. Staffing Ratios**

- A.** An adoption agency shall have sufficient staff to satisfy:
1. All statutory requirements for provision of adoption services;
  2. All applicable requirements of this Article and A.A.C. Title 21, Chapter 5, Article 4; and
  3. All requirements included in the adoption agency's own operating and procedural manuals, policies, or guidance documents.
- B.** To determine sufficiency under subsection (A), OLR shall consider:
1. Complaints made against the adoption agency;
  2. The complexity of the individual needs of the clients served by the adoption agency;
  3. The professional training and experience of the adoption agency's staff;
  4. The specific functions assigned to individual adoption agency staff;
  5. The geographic area served by the adoption agency and any travel time required for adoption agency staff;
  6. The respective amounts of time staff devote to various functions and responsibilities, including provision of services, court appearances, case documentation, professional training and development, and administrative tasks; and
  7. Other similar factors bearing on caseload distribution.
- C.** Notwithstanding any other provision of this Article, a social worker whose caseload is predominantly a caseload of children with special needs shall not have a caseload in excess of 20 children.

**R21-9-220. Operations Manual**

- A.** An adoption agency shall have a written operations manual, which shall include:
1. A statement of the adoption agency's purpose, philosophy, and program;
  2. A list of any eligibility requirements for a client;



- 3. A description of services provided to clients and the name of any person or entity providing the service, if different from the adoption agency and its employees;
- 4. An organizational chart explaining the adoption agency's lines of authority;
- 5. Intake policies and procedures;
- 6. The operational procedures the adoption agency follows for delivery of services;
- 7. Confidentiality policies and procedures;
- 8. Staff training policy;
- 9. Policy for use of volunteers;
- 10. Policy on student and intern placement;
- 11. Policy and procedures to be followed in the event of adoptive placement disruption;
- 12. Policy for recruitment and selection of adoptive families; and
- 13. Policy for transferring files if the adoption agency goes out of business, including designated personnel or positions to handle the transfer.

- B.** The adoption agency shall make the operations manual available to all adoption agency personnel and shall ensure that personnel are familiar with and trained in those policies and procedures relevant to their job functions.
- C.** The adoption agency shall make the operations manual available for review by a client, upon request.

**R21-9-221. Adoption Agency Operations Budget; Financial Records**

- A.** Before the start of the adoption agency's fiscal year, the Governing Body shall adopt a budget that shall reflect sufficient funds to pay the costs of the adoption agency's program and shall be based on the audit report prepared in compliance with R21-9-222, or, if applicable, the documentation required by R21-9-222 subsection (C).
- B.** The adoption agency shall operate within the budget adopted by the Governing Body.
- C.** The adoption agency shall maintain financial records of receipts, disbursements, assets, and liabilities. The adoption agency shall maintain its financial records in accordance with generally accepted accounting principles; the records shall accurately reflect the adoption agency's financial position.
- D.** The adoption agency shall maintain records showing the following information:
  - 1. Each adoptive parent's original contract date with the adoption agency;
  - 2. Fees that each adoptive parent has paid to the adoption agency and the date of such payments; and
  - 3. Fees that the adoption agency has charged to the adoptive parent.
- E.** The adoption agency shall make all records described in this Section available for inspection by OLR at periodic inspections, or at other reasonable times upon Department request.
- F.** The adoption agency shall retain financial records for ten years, including the records involved in an audit, following completion of the audit.

**R21-9-222. Annual Financial Audit**

- A.** An adoption agency shall obtain an annual, fiscal year-end, financial audit by an independent certified public accountant. The accountant shall conduct the audit in accordance with generally accepted auditing standards.
- B.** The adoption agency shall obtain from the auditor a written audit report that shall include the following financial information:
  - 1. Income statement,
  - 2. Balance sheet,
  - 3. Statement of cash flows,
  - 4. Statement of monies or other benefits the adoption agency has paid or transferred to other business entities or individuals affiliated with the adoption agency, and
  - 5. A record of any financial transactions between the adoption agency and any other adoption agency.
- C.** Notwithstanding subsections (A) and (B), for adoption agencies with an annual income of less than \$250,000, rather than submit the financial audit required in subsections (A) and (B), the adoption agency shall:
  - 1. Provide verifiable information that allows OLR to evaluate the adoption agency's financial stability.
  - 2. Maintain acceptable documentation that includes:
    - a. Annual fiscal audit;
    - b. Six month current bank statement;
    - c. Statements from lines of credit; and
    - d. The previous year's tax return.
- D.** OLR may request additional information that would allow OLR to evaluate the adoption agency's financial stability.

**R21-9-223. Insurance Coverage**

- A.** An adoption agency contracted with the State shall have insurance coverage as required by the State contract in addition to the requirements of this Section.
- B.** An adoption agency shall have insurance coverage that provides protection against financial loss as required by this Section, including insurance coverage with the minimum scope and limits of liability not less than those stated below.
  - 1. Commercial General Liability - Occurrence Form Coverage including bodily injury, property damage, personal injury, and broad form contractual liability:
    - a. General Aggregate \$2,000,000;
    - b. Products – Completed Operations Aggregate \$1,000,000;



- c. Personal and Advertising Injury \$1,000,000;
- d. Blanket Contractual Liability – Written and Oral \$1,000,000;
- e. Fire Legal Liability \$50,000;
- f. Each Occurrence \$1,000,000; and
- g. The policy shall include coverage for sexual abuse and molestation.
- 2. Automobile Liability. The policy shall cover bodily injury and property damage for any owned, hired, or non-owned vehicle used in the performance of licensee's operations and shall have a Combined Single Limit (CSL) coverage of \$1,000,000.
- 3. Worker's Compensation and Employers' Liability.
  - a. Workers' Compensation coverage shall comply with state statutory requirements.
  - b. Employers' Liability.
    - i. Each Accident \$500,000;
    - ii. Disease – Each Employee \$500,000; and
    - iii. Disease – Policy Limit \$1,000,000.

**R21-9-224. Physical Space Requirements: Transportation of a Child**

- A. An adoption agency shall not discuss confidential information with a client in a public setting.
- B. An adoption agency shall have available a physical space in Arizona that provides privacy and security.
- C. Meeting Space.
  - 1. Available space. The adoption agency shall maintain at its offices in Arizona or have available a local meeting space for interviewing children and families and for supervisory conferences.
  - 2. Confidentiality. The adoption agency meeting space shall provide privacy for interviews and discussion of confidential information.
  - 3. Safety. The adoption agency meeting space shall comply with any building, health, fire or other codes in effect in the jurisdiction where it is located.
  - 4. Telephone. The adoption agency meeting space shall have telephone service.
- D. Records Storage Space.
  - 1. The adoption agency shall maintain or have available a physical space for records storage that protects confidentiality and provides security.
  - 2. The records storage space may be a space for hard copy records or a secure server with encryption capabilities for digital records.
  - 3. The adoption agency storage space shall provide security against theft, unauthorized release, security breach, damage, and loss of records.
  - 4. The adoption agency storage space shall allow for immediate protection of confidential information.
  - 5. If the adoption agency contracts for storage space, the contract shall include:
    - a. A provision that all records are owned solely by the adoption agency and shall not be used or disseminated by the contractor in any way;
    - b. A provision that the contractor shall return all records immediately upon cessation of the contract; and
    - c. A provision requiring security against theft, unauthorized release, security breach, damage, and loss of records.
- E. Transportation. When an adoption agency transports a child or directs the transportation of a child, the adoption agency shall ensure that the vehicle, at a minimum:
  - 1. Is maintained in safe operating condition;
  - 2. Is properly licensed, registered, and has liability insurance; and
  - 3. Has passenger safety restraints available and:
    - a. Each child less than the age of five years or weighing less than 40 pounds is properly secured in a child car seat and child restraint system that is appropriate to the height, weight, and physical condition of the child;
    - b. Each child five to eight years of age who weighs more than 40 pounds, but is less than four feet nine inches in height is properly secured in a child restraint system that is appropriate to the height, weight, and physical condition of the child;
    - c. Each child not covered by subsections (a) and (b) is properly secured with a seat belt;
    - d. Each child with a disability that prevents the child from maintaining head and torso control while sitting is secured in a car bed, harness, or other device designed to protect the child during transportation; and
    - e. If a child is transported in a wheelchair, the child is properly secured with a floor-mounted seat belt, and the wheelchair is properly immobilized using lock-down devices.
- F. An adoption agency shall not leave a child unattended during transportation if the 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 agency has determined, and documented in the child's record, that the child is physically and emotionally incapable of traveling alone;
- G. The adoption agency shall ensure that the adoptive parent has all of the equipment in place and properly installed to meet the requirements of subsection (E) prior to placement.
- H. An adoption agency shall ensure the following safety requirements for drivers selected by the adoption agency to trans-



port a child:

- 1. The driver has a valid driver license; and
- 2. The driver practices safe, defensive driving and obeys all traffic laws.

**I.** A child shall not be transported in a truck bed, cargo area, camper, or in a trailer attached to a motor vehicle.

**R21-9-225. Protecting Confidentiality of Adoption Records**

The adoption agency shall have and follow a written policy for the maintenance and security of adoption records. The policy shall be consistent with A.R.S. §§ 8-120, 8-121, and 36-2903.01(Q) and shall specify:

- 1. The personnel responsible for supervision and maintenance of records;
- 2. The persons who shall and may have access to the records;
- 3. The procedures for immediately securing confidential information;
- 4. The procedures for authorizing release of records;
- 5. The procedures for release of records;
- 6. The procedures for security breach or loss of adoption records; and
- 7. The procedures for transferring records.

**R21-9-226. Recordkeeping Requirements: Adoptive Children**

The adoption agency shall maintain a case record for each adoptive child. Except as otherwise provided in A.R.S. § 8-129, the record shall be divided into two sections as follows:

- 1. Non-identifying information as required by A.R.S. § 8-129; and
- 2. Identifying information which shall include:
  - a. Tapes, videos, or photos of the adoptive child or birth parent;
  - b. Legal documents and reports required for adoption;
  - c. Social, physical, mental, and educational history of the child’s birth family;
  - d. Social, physical, mental, and educational history of the adoptive child; and
  - e. A summary of all action taken to prepare the child for placement in the adoptive home.

**R21-9-227. Recordkeeping Requirements: Adoptive Parents**

The adoption agency shall maintain a case record for each adoptive parent. If the adoptive parent is a member of the same family as another adoptive parent, the adoption agency can maintain one file for the adoptive family. The file shall include:

- 1. Documentation showing that the adoptive parent received the orientation described in R21-5-403.
- 2. The adoptive parent’s application for certification.
- 3. The adoptive parent’s certification report and any recertification reports.
- 4. A copy or description of the non-identifying information the adoption agency has provided to the adoptive parent pursuant to A.R.S. § 8-129(A), and
- 5. A summary of the adoptive placement decision and the pre-placement and post-placement contacts with the adoptive family and the adoptive child.

**R21-9-228. Reporting Requirements: Abuse; Adoption Agency Change; Change of Circumstances of a Child or Family**

**A.** During the period of time that an adoption agency is providing services to an adoptive child or family, the adoption agency shall:

- 1. Immediately report any suspected or alleged incident of abuse or neglect of an adoptive child to the Department; and
- 2. Immediately notify an adoption agency licensing representative in OLR if an adoptive child dies or suffers a serious illness, bodily injury, or psychiatric episode.

**B.** An adoption agency shall notify OLR orally of any of the following changes or events within 24 hours after the adoption agency learns of their occurrence and shall submit written notification to OLR within seven days:

- 1. Permanent or temporary closure of the adoption agency or any part thereof;
- 2. A criminal conviction or plea agreement involving any adoption agency staff member, including a volunteer and intern, excluding minor traffic violations;
- 3. Filing of a lawsuit against the adoption agency;
- 4. Filing of a lawsuit against adoption agency personnel when the lawsuit relates to or is likely to adversely affect the provision of adoption services;
- 5. Damage to adoption agency facilities that substantially disrupts the program or the adoption agency’s accessibility to a client; and
- 6. Knowledge of any child placement that the adoption agency reasonably believes is not permitted by law.

**C.** The adoption agency shall notify OLR in writing at least 30 calendar days prior to any of the following proposed changes and events, if known:

- 1. Any plans to reorganize the adoption program that would involve changes in target population, geographic area, services, or eligibility, and the reasons for the changes;
- 2. Any change in the identity of the adoption agency administrator or social services director; or
- 3. Any change in ownership as described in R21-9-206(D).

**D.** Change of Circumstances of a Child or Family.



1. When there is a change in the adoptive circumstances of a child or family listed on the Adoption Registry, the adoption agency shall notify the Department of the change within five work days of receipt of information about the changed circumstances.
2. For the purpose of this subsection, a change in adoptive circumstances include the following events:
  - a. Placement of a child.
  - b. Loss or renewal of certification, and
  - c. Disruption or failure of a placement.

**R21-9-229. Closure of Adoption Agency: Record Requirements**

- A.** An adoption agency shall not destroy any files, records, reports, and other papers not filed in or in the possession of the court for 99 years;
- B.** If an adoption agency ceases operations, the adoption agency shall do all of the following:
  1. Transfer the documents described in subsection (A) of this section to the Department or to another adoption agency in this state if the documents concern a matter that is closed;
  2. Transfer the documents described in subsection (A) of this section to another adoption agency in this state if the documents concern a matter that is open;
  3. Notify the Department of the transfer of any documents to another adoption agency in this state; and
  4. Notify all adoptive parents whose files the adoption agency is transferring to the Department or another adoption agency in this state of the transfer.

**R21-9-230. Birth Parent: Service Agreement; Prohibitions**

- A.** Before providing services to a birth parent, an adoption agency shall enter into a signed written agreement with the birth parent. The agreement shall:
  1. Describe all services the adoption agency shall provide to the birth parent;
  2. Contain an explanation in plain language describing any monies that an adoptive parent may pay to a birth parent under A.R.S. § 8-114, including that a birth parent may only receive payments up to \$1,000 without court approval;
  3. Contain an itemized statement describing the nature, purpose, and amount of any payments the birth parent shall receive through the adoption agency or any entity affiliated with the adoption agency under A.R.S. § 8-114:
    - a. If the actual amount under subsection (3) is not known, the adoption agency shall describe how the amount shall be calculated, and
    - b. Include amounts only for reasonable and necessary expenses incurred in connection with the adoption under A.R.S. § 8-114.
- B.** Before or at the time of entering into a birth parent agreement with a birth mother, the adoption agency shall advise the birth mother of her obligations under A.R.S. § 8-106(F).
- C.** Before providing services to a birth parent, the adoption agency shall advise the birth parent of OLR's responsibility for licensing and monitoring an adoption agency, and the public's right to register a complaint about an adoption agency as prescribed in R21-9-235.

**R21-9-231. Adoption Fees: Reasonableness**

- A.** An adoption agency shall not charge a client more than a reasonable fee for services.
- B.** An adoption agency shall establish, maintain, and follow a written policy on the fees it charges a client for adoption services. The fee policy shall include all of the adoption agency's practices and procedures regarding fees, including the following:
  1. A schedule of fees the adoption agency charges for each specific service the adoption agency offers, and the time in the adoption process when the client is required to pay the fee, broken down, at a minimum, as follows:
    - a. Preregistration and registration fees.
    - b. Application and orientation fees.
    - c. Certification application fee.
    - d. Certification investigation.
    - e. Certification report.
    - f. Certification renewal fees.
    - g. Placement services.
    - h. Placement investigation and report.
    - i. Foreign adoption services.
    - j. Post-placement services.
    - k. Fees incurred when a child has special needs, and
    - l. Twins or sibling placements;
  2. An explanation of any practice the adoption agency may have for assessing fees based on pooled or averaged costs;
  3. An explanation of the circumstances or conditions that would cause the adoption agency to reduce, waive, suspend, or refund a fee, which circumstances may include:
    - a. Adjustment made for the well-being of an adoptive child, and
    - b. Adjustments made to accommodate an adoptive parent's limited ability to pay;
  4. An explanation of the circumstances that would cause the adoption agency to increase its fees; and



- 5. The procedures the adoption agency follows to collect its fees.
- C. An adoption agency shall advise prospective and existing clients of its fee policy and shall make a copy of the policy available to clients upon request.
- D. An adoption agency shall not:
  - 1. Condition a client's eligibility for, or receipt of, adoption services on the client's donation or agreement to donate money, goods, services, or other things of value, other than the regular scheduled adoption fees, to the adoption agency or to an adoption agency affiliate;
  - 2. Obstruct or withhold finalization of a placement or adoption solely for nonpayment of fees;
  - 3. Charge a client for any fee, which the adoption agency has not listed in the fee schedule, included in its fee policy, and disclosed to the client in the client's fee agreement letter;
  - 4. Charge a prospective adoptive parent advance fees contrary to R21-5-403(D); or
  - 5. Charge a prospective adoptive parent for a service not rendered.
- E. OLR may audit, or designate a certified public accountant to audit, an adoption agency's fee structure.
- F. The adoption agency shall provide OLR and the adoption agency's current adult clients with a copy of any changes made to the adoption agency's fee policy, no less than 14 days prior to the effective date of the change.
- G. An adoption agency shall refund to a client any fees the client paid for services the adoption agency failed to perform. Against any such refund, the adoption agency may offset any amount due from the client for services the adoption agency has performed and for which the client agreed to pay but has not paid.

**R21-9-232. Adoption Fee Agreement**

- A. Before providing services to an adoptive parent, the adoption agency shall enter into a written fee agreement with the adoptive parent. Both the adoptive parent and an authorized representative of the adoption agency shall sign and date the agreement. The adoption agency shall retain the original agreement in the adoptive parent's file and provide a copy to the adoptive parent.
- B. The fee agreement shall include the following terms:
  - 1. A description of all services the adoption agency will provide to the adoptive parent and the fee for each service; the agreement shall specify how much of the fee is being allocated to cover medical expenses, including the cost of pre-natal care and delivery;
  - 2. A general description of any adoption services the adoption agency is not providing but that are required to finalize the adoption, with an estimate of the costs of such services;
  - 3. The terms of payment, including payment due dates and amounts; and
  - 4. A statement advising the client of the client's right to receive a copy of the adoption agency's fee policy.
- C. An adoption agency shall not charge a fee, other than a certification application fee, or enter into an adoption fee agreement until after the potential client has received the orientation described in R21-5-403.
- D. When an adoption agency charges adoptive parents for birth parent counseling, the adoption agency will monitor birth parent attendance at scheduled counseling at least monthly. When a birth parent does not schedule counseling services or misses scheduled counseling services for a month, the adoption agency shall refund to the adoptive parents the portion of the fee covering the remainder of the counseling services.

**R21-9-233. Monitoring: Inspections and Interviews; Compliance Audit**

- A. OLR shall monitor the ongoing operations of each adoption agency.
- B. Monitoring activities may include the following:
  - 1. At least one announced and one unannounced onsite inspection of each adoption agency during the licensing year;
  - 2. Interviews of adoption agency personnel and clients;
  - 3. A review of the adoption agency's books, records, and sample client files; and
  - 4. A compliance audit of the adoption agency, as described in subsection (C).
- C. Upon receipt of a complaint against an adoption agency or in response to observed deficiencies, OLR may conduct a compliance audit of the adoption agency to assess the adoption agency's compliance with applicable adoption licensing and adoption services statutes and rules.
- D. An adoption agency shall facilitate OLR's monitoring functions or compliance audit by:
  - 1. Making the adoption agency's books, files, records, manuals, premises, and facilities available to OLR staff for inspection;
  - 2. Allowing OLR to interview adoption agency staff; and
  - 3. Enabling OLR to conduct interviews with adoption agency clients.

**R21-9-234. Complaints; Investigations**

- A. Any person may register a complaint about an adoption agency with OLR. OLR shall ask persons making oral complaints to put the complaint in writing.
- B. Upon receipt of a complaint, or in response to deficiencies observed by Department staff, OLR shall investigate the allegations of the complaint or the deficiencies.
- C. OLR's investigation may include:
  - 1. Interviews with the complaining party, adoption agency staff, including a volunteers and interns, and adoption agency clients;
  - 2. Inspections of adoption agency records, files, or other documents related to the issues raised in the complaint; and
  - 3. Any other activities necessary to determine the truth of the allegations.



- D. Upon completion of its investigation, OLR shall:
  - 1. Find that the complaint is not valid and close the investigation;
  - 2. Find that the complaint is valid and take appropriate disciplinary action against the adoption agency, as described in this Chapter; or
  - 3. Find that the complaint cannot be validated or refuted based on the available evidence.
- E. OLR shall maintain a file on all complaints against an adoption agency and shall make information on validated complaints available to the general public, upon request, and to the extent permitted by confidentiality laws.
- F. A complainant's identity is confidential unless OLR takes a licensing action based on the testimony of the complainant.

**R21-5-235. Noncompliance Status: Corrective Action Plan**

- A. OLR shall place an adoption agency in noncompliance status when an OLR representative observes or receives and validates a complaint in an area that does not endanger the health, safety, or well-being of a client.
- B. OLR shall mail the adoption agency written notice of the noncompliance status, the reason for that status, and recommendations for changes the adoption agency can make to cure the identified problem.
- C. No later than 14 days following the date of the noncompliance notice, the adoption agency shall provide OLR with a written plan showing how the adoption agency shall correct the problem that resulted in the noncompliance status, with an estimated time-frame in that the adoption agency shall implement the corrective action. OLR may extend the 14-day time-frame when the adoption agency has demonstrated a good faith effort to address and resolve the identified problem.
- D. Imposition of a corrective action plan is not appealable.
- E. Failure to comply with the requirements of a corrective action plan may result in an adverse licensing action.

**R21-9-236. Suspension**

- A. OLR may suspend an adoption agency's license for violations of the statutes or rules governing adoptions, or for any activity that may threaten the health, safety, or welfare of any adoption agency client, including the following:
  - 1. When the Department receives a report of abuse or neglect alleged to have been committed by adoption agency staff, including a volunteer or intern against a child, and the adoption agency fails to take protective measures pending an investigative finding;
  - 2. Conduct that causes disruption of a placement or adoption;
  - 3. When an adoption agency permits an employee who has failed to comply with fingerprinting requirements or who has been denied fingerprint clearance to continue providing services to children;
  - 4. When an adoption agency refuses to cooperate with OLR requests for information that OLR requires for determining compliance with the statutes and rules governing provision of adoption services;
  - 5. When an adoption agency refuses to provide OLR with information OLR has requested during the course of a complaint investigation; or
  - 6. When an adoption agency fails to correct a problem that resulted in imposition of noncompliance status, within the time provided in the adoption agency's corrective action plan.
- B. OLR shall mail the adoption agency written notice of the suspension, the reason for the suspension, and an explanation of the adoption agency's right to appeal the suspension.
- C. Except as otherwise provided in subsection (D), an adoption agency may continue to place adoptable children who become available for placement and to finalize adoptions of placed children and adoptees during a period of suspension, but the adoption agency shall not recruit, accept, or register any new birth or adoptive parent.
- D. When the Department finds that the physical or emotional health or safety of a client is in imminent danger, the Department may take immediate action to eliminate the danger. For the purpose of this subsection,
  - 1. A situation involving imminent danger are those situations identified in A.R.S. § 8-821(B) that would justify removal of a child;
  - 2. Immediate action may include:
    - a. Removal of a child,
    - b. Transfer of a client to another adoption agency, or
    - c. Other protective action designed to eliminate the danger or risk of harm.
- E. If the adoption agency does not correct the situation that led to suspension of its license, OLR shall initiate license revocation proceedings against the adoption agency.

**R21-9-237. Revocation**

- A. OLR may revoke a license for any of the following reasons:
  - 1. When the adoption agency refuses or fails to comply with licensing requirements, Arizona or federal laws, local codes or ordinances, or violates a statute or rule governing provision of adoption services;
  - 2. When the adoption agency commits any activity that may threaten the health, safety, or welfare of any adoption agency client, including, but not limited to the circumstances justifying license suspension, as prescribed in R21-9-236;
  - 3. When the adoption agency commits fraud or intentional misrepresentation in obtaining or renewing its license;
  - 4. When the adoption agency commits fraud or intentional misrepresentation in dealing with its clients;
  - 5. When the adoption agency has obtained a birth parent's relinquishment and consent to adoption through duress, coercion, extortion, or intimidation;



- 6. When the adoption agency knowingly fails to advise an adoptive parent that the adoptive child has been abused while in the adoption agency's care or control; or
- 7. When the adoption agency violates its agreement with a client for provision of services.
- B.** OLR shall mail the adoption agency written notice of the revocation, the reason for the revocation, and an explanation of the adoption agency's right to appeal the revocation.
- C.** A revocation is effective:
  - 1. Twenty-one days after receipt of the notice or letter advising the person of the revocation; or
  - 2. In cases where the adoption agency appeals the revocation the revocation is effective under R21-1-307.
- D.** An adoption agency that has had its license revoked shall not perform adoption services after the effective date of the revocation and shall surrender its license to OLR.
- E.** An adoption agency that has had its license revoked shall cooperate with OLR to transfer all its clients to another adoption agency.

**R21-9-238. Adverse Action: Procedures**

- A.** When OLR takes adverse action against adoption agency applicant or adoption agency, OLR shall give the affected party written notice of such adverse action by first-class or registered mail.
- B.** For the purpose of this Section, the following are adverse actions:
  - 1. Denial of an initial or renewal license, and
  - 2. Suspension or revocation of a license.
- C.** The adverse action notice shall specify:
  - 1. The action taken,
  - 2. All reasons supporting such action,
  - 3. The procedures by which the adoption agency may contest the action taken, and
  - 4. Where the adoption agency may file an appeal.

**R21-9-239. Appeals**

- A.** An adoption agency applicant or adoption agency may appeal an adverse action other than imposition of a corrective action plan due to noncompliance status, by filing a written notice of appeal with OLR no later than 20 days after receipt of the notice or letter advising the adoption agency of the adverse action.
- B.** OLR shall conduct an appeal from an adverse action as prescribed in A.A.C. Title 21, Chapter 1, Article 3.

**R21-9-240. International Adoptions**

- A.** An adoption agency shall not accept a foreign child for adoptive placement in the United States unless the government of the foreign child's country of origin authorized the placement.
- B.** The adoption agency shall provide OLR with evidence of its authority from or agreements with a foreign country or placing organization (such as Hague Accreditation). If the evidence of authority is not written in English, the adoption agency shall provide an English language translation of the documentation by an independent translation service.
- C.** The adoption agency shall advise the adoptive parents of the need to have the child naturalized in the United States.
- D.** The adoption agency shall provide adoptive parents with information about the child's culture of origin.