

PERMANENCY SERVICES-PREVENTION, FOSTER CARE, ADOPTION, AND
INDEPENDENT LIVING22 VAC 40-201-10. Definitions.

The following words and terms, when used in this regulation, shall have the following meaning, unless the context clearly indicates otherwise:

“Adult adoption” means the adoption of any person 18 years of age or older. A petition may be filed in circuit court by any natural person who is a resident of this

Commonwealth (1) for the adoption of a stepchild 18 years of age or over to whom he has stood in loco parentis for a period of at least three months; (ii) for the adoption of a

niece or nephew over 18 years of age who has no living parents and who has lived in

the home of the petitioner for at least three months; (iii) for the adoption of any person

18 years of age or over who is the birth child of the petitioner or who had resided in the

home of the petitioner for a period of at least three months prior to becoming 18 years of

age; or (iv) for the adoption of any person 18 years of age or older, for good cause

shown, provided that the person to be adopted is at least 15 years younger than the

petitioner and the petitioner and the person to be adopted have known each other for at

least five years prior to the filing of the petition for adoption, and provided further that

both the petitioner and the person to be adopted have been residents of the

Commonwealth for at least two years immediately prior to the filing of the petition.

"Adoption" means a legal process in which a person's rights and duties toward birth

parent(s) are terminated and similar rights and duties are established with a new family.

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"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive home study" means an assessment of the adoptive family to determine their suitability for adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adoption assistance agreement" means a written agreement between the agency and adoptive parent(s). An adoption assistance agreement may be for a federal subsidy, a state subsidy, or a conditional subsidy.

"Adoption Progress Report" means a report filed with the juvenile court every six months that documents in detail, the reasonable efforts made to locate an adoptive family for a child following termination of parental rights. The Code of Virginia, §16.1-283. F requires that an Adoption Progress Report be submitted to the juvenile court every six months following termination of parental rights until the adoption is final.

"Adoption search" means interviews and written or telephone inquiries made by an agency to locate and advise the biological parent(s) or siblings of an adult adoptee's request by Application for Disclosure or petition to the court for identifying information from a closed adoption record.

"AFDC" means the Aid to Families with Dependent Children Program.

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"Agency placement adoption" means an adoption in which a child is placed in an adoptive home by a local department or child-placing agency which has custody of the child.

"AREVA" means the Adoption Resource Exchange of Virginia which maintains a registry and photo-listing of children and families waiting for adoption.

"Assessment" means an initial evaluation of the situation of the child and family to identify services needed.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent(s) and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person under 18 years of age.

"Child placing agency" means any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to the Code of Virginia, § 63.2-1819 or a local board that places children in foster homes or adoptive homes pursuant to the Code of Virginia, §§ 63.2-900, 63.2-903 and 63.2-1221. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child with special needs" means any child, under the age of 18, in the custody of an agency or child placing agency who:

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1. The state has determined is unlikely to return home because of termination of parental rights.

2. Has individual characteristics that make the child hard to place including:

a. having a physical, mental, or emotional condition(s) existing prior to adoption;

b. having a hereditary tendency, congenital problem, birth injury leading to risk of future disability;

c. having been prenatally exposed to drugs or alcohol or suspected of having been prenatally exposed to drugs or alcohol;

d. being eight years of age or older;

e. being a member of a minority or mixed racial heritage, and at least 3 years of age;

f. being a member of a sibling group who are being placed with the same family at the same time; or

g. having significant emotional ties with the foster parents with whom the child has resided for at least 12 months, when the adoption is in the best interest of the child.

3. Has had reasonable efforts made to place without subsidy.

4. For whom the above conditions were present at the time of adoption, but not diagnosed until after entry of the final order of adoption and the diagnosis is not more than 12 months old.

“Commissioner” means the Commissioner of the Department of Social Services or his designee, or authorized representative.

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“Community Policy and Management Team (CPMT)” means a team established by the Comprehensive Services Act for At-Risk Youth and Families. The team is appointed by local governing bodies to manage the cooperative effort in each community to serve the needs of troubled and at-risk youth and their families and to maximize the use of state and community resources. This team’s powers and duties are set out in the Code of Virginia, §2.2-5206.

“Comprehensive Services Act for At-Risk Youth and Families (CSA)” means the legislation found in the Code of Virginia §2.2-5200 et. seq. creating a collaborative system of services and funding that is child centered, family focused, and community based to address the strengths and needs of troubled and at-risk youth and their families.

“Custody investigation” means a court ordered method to gather information regarding a child whose custody, visitation or support is in controversy or requires determination.

“Department” means the State Department of Social Services.

“Family” means the child’s birth or adopted family or prior custodian(s), whoever had legal custody of the child at the time the child entered foster care.

“Family Assessment and Planning Team (FAPT)” means the local team created by the CPMT to assess the strengths and needs of troubled youths and families who are referred to the team. The powers and duties of the FAPT are set out in the Code of Virginia §2.2-5208.

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"Finalization of the adoption" means the court process of approving the adoption which begins with the filing of a petition and ends with the entry of the final order of adoption.

"Foster child" means a person who has been placed into foster care through a non-custodial foster care agreement, entrustment or court commitment before 18 years of age and who may remain in foster care to age 21.

"Foster Care Placement" means placement of a child through (i) an agreement between the parent(s) or guardian(s) and the local board or public agency designated by the CPMT where legal custody remains with the parent(s) or guardians, or (ii) an entrustment or court commitment of the child to the local board or licensed child-placing agency.

"Foster Care Services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child, who is abused or neglected as defined in the Code of Virginia §63.2-100 or in need of services as defined in §16.1-228, and his family, when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board or the public agency designated by the community policy and management team and the parent(s) or guardian(s) where legal custody remains with the parent(s) or guardian(s), or (iii) has been committed or entrusted to a local board or licensed child placing agency.

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"Foster family placement" means placement of a child with a family which has been approved by the local department or a child placing agency to provide substitute care for children until a permanent placement can be achieved.

"Foster home" means the place of residence of any natural person in which any child, other than a child by birth or adoption of such person, resides as a member of the household.

"ICPC" means the Interstate Compact on the Placement of Children which is found in the Code of Virginia §63.2-1000 and is statutory uniform law in all 50 states, the District of Columbia and the U.S. Virgin Islands.

"Independent living" means a program of services and activities for children in foster care who are 16 years of age or older, and persons who are former foster care children between the ages of 18 and 21 that prepares them for the successful transition from foster care to self sufficiency.

"Independent living placement" means placement of a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency and has been placed by the local board or licensed child-placing agency in a living arrangement in which he does not have daily substitute parental supervision.

"Individual Family Service Plan (IFSP)" means the plan for services developed by the FAPT in accordance with §2.2-5208 of the Code of Virginia.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-

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placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent(s) or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent(s) or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Investigation and report of investigation" means the process by which the local department obtains specific information required by the Code of Virginia about the placement and the suitability of the adoption. The findings of the investigation are compiled into a written report for the circuit court containing a recommendation of the action to be taken by the court.

"Juvenile court" means the Juvenile and Domestic Relations District Court of Virginia.

"Lifebook" means a picture and narrative story of a child's life written by the child and social worker using the child's own words, pictures, photos, drawings, and memorabilia to tell the child's story.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Maintenance Payments" means payments made on behalf of a child to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, and school supplies. A child's personal incidentals, liability insurance with respect to a child and

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reasonable travel for a child's visitation with family or other caretakers are also included in the definition of a maintenance payment.

"Non-Agency placement adoption" means an adoption in which the child is not in the custody of a local department or licensed child placing agency, and is placed in the adoptive home directly by the birth parent(s) or legal guardian.

"Non-Custodial Foster Care Agreement" means the agreement that specifies the conditions for care and control of the child that the agency or public agency designated by the community policy and management team enters into with the parent(s) or guardian(s) to place a child in foster care when the parent(s) or guardian(s) retain custody.

"Nonrecurring expenses" means expenses of adoptive parent(s) directly related to the adoption of a child with special needs including, but not limited to, attorney fees directly related to the finalization of the adoption; transportation; court costs; and reasonable and necessary fees of child placing agencies.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent(s) or legal guardian(s) for the purpose of foster care or adoption.

"Permanency" for children means establishing family connections and placement options for children in order to provide a lifetime of commitment, continuity of care, a sense of belonging and a legal and social status that goes beyond the child's temporary foster care placement.

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“Permanency Planning” means an array of social work and legal efforts directed toward securing safe, nurturing, life-long families for children in foster care.

“Petitioner” means the person who presents the petition for adoption to the court.

“Person” means any natural person, or any association, partnership or corporation.

“Prior custodian” means the person with whom the child resided, other than the birth parent(s), before custody was transferred to or placement made with the local department or licensed child placing agency when that person had custody of the child.

“Reassessment” means evaluation of the situations of the child, birth family or prior custodian(s), and resource, foster or adoptive family completed after the initial assessment to identify changes in needed services.

“Residential placement” means placement in a licensed publicly or privately owned facility, other than a private family home, where 24-hour care is provided to children separated from their families. A residential placement includes residential facilities for children, group homes, and some programs in psychiatric hospitals. Residential and group home placements are not considered permanent foster care placements.

“Resource Family” means an approved relative or foster family home which agrees to both support reunification and be prepared to adopt the child if the child and family do not reunify.

“Reunification” means the return of the child to his home, based on a permanent plan, after removal for reasons of child abuse and neglect, abandonment, child in need of

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services, parental request for relief of custody, non-custodial agreement, entrustment, or any other court-ordered removal.

"Service Fee Directory" means the directory created pursuant to the Code of Virginia §2.2-5214 which lists services offered and rates charged by any entity, public or private, that offers specialized services for at-risk youth or families.

"Service plan" means a written document which outlines the services needed and those which will be provided to a foster child and his family.

"Service worker" means the worker primarily responsible for case management or service coordination and meeting the foster care requirements for a foster care case.

"Special service payments" means payments or services provided to help in meeting the adoptive or foster child's physical, mental, emotional, or dental needs.

"SSI" means Supplemental Security Income.

"State Pool Fund" means the pooled federal, state and local funds established by the Comprehensive Services Act and used to pay for services authorized by the CPMT, including foster care services.

"Step-parent adoption" means the adoption of a child by a new spouse of the birth or adoptive parent.

"Subsidy/adoption assistance" means a money payment or services provided to adoptive parent(s) on behalf of a child with special needs.

"Title IV-E" means the title of the Social Security Act that authorizes federal funds for foster care and adoption assistance

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"Treatment program" means a program designed to provide services for physical, mental, and emotional problems.

"Visitation and report" means the visitation conducted pursuant to the Code of Virginia §63.2-1212 and subsequent to the entry of an interlocutory order of adoption; and the written report compiling the findings of the visitation which is filed in the circuit court.

"Youth" means any child 16-18 years of age or any person 18 to 21 years of age transitioning out of foster care and receiving independent living services pursuant to the Code of Virginia §63.2-905.1.

22 VAC 40-201-20. Prevention and Stabilization.

A. Services shall be available to families to prevent the need for foster care placement to the extent that funds are available for these services. Any services available to a child in a foster care placement may also be available to a child and his family to prevent foster care placement and shall be based on an assessment of the child's and family's needs. Families have a right to decline offered services.

B. Services to prevent foster care placement are paid from state pool funds, family preservation funds, and child protective service funds.

C. Services may include those that:

1. Support children and families to reach self-sufficiency;
2. Protect children and families from abuse/neglect;
3. Keep children out of foster care by keeping families together;
4. Reunite children with their family or prior custodian(s), when possible; and

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5. Find new homes and/or preventing disruption of adoptions, if possible.

D. Mandated foster care prevention cases are those in which:

1. The child's safety is at risk if he remains in the home or with the custodian(s);

2. The child is at risk of removal and placement into foster care within six months of the date the need for services is identified;

3. The goal is to maintain the child in the home or with the custodian(s); and

4. The services are provided by a provider who meets appropriate and relevant standards.

E. Non-mandated foster care prevention cases are those which:

1. Services may be provided to the extent funds are available; and

2. Short-term intervention is needed to stabilize the family's or child's situation and/or to provide family support when the child is not at immediate risk of removal from his home,

3. Services are needed to enhance parental or family capacities to care for and nurture the child(ren); and

4. Short-term support is needed to maintain the family when a parent/caretaker has temporarily lost the capacity to care for and nurture the child.

F. Services will generally be short-term and may be intensive in order to address and resolve immediate crises that threaten family integrity and safety.

G. Every prevention case shall begin with a current assessment of the family's and child's situation, including a safety assessment when there are allegations of abuse and

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neglect. A re-assessment shall be done every six months thereafter and shall continue until the foster care case is closed.

H. Any service may be purchased to prevent foster care placement and/or to stabilize the family situation, provided the need for the service is documented in the local department's case record or the foster care service plan or in the CSA's individual family service plan (IFSP).

I. Services may include the purchase of basic services such as emergency shelter, food, clothing, utilities or rent when no other resources are available and a lack of these resources becomes life threatening or may result in foster care placement.

22 VAC 40-201-30. Entering Foster Care.

A. Children enter foster care through court commitment based on an abuse or neglect petition, children in need of services (CHINS) petition, an entrustment, delinquency, a request for relief of custody, and a non-custodial foster care agreement.

B. Title IV-E court order requirements for placement in foster care.

1. Best interest requirements.

The local department shall ensure that the initial court order contains a judicial determination that the child was removed from the home because the court found that continuation in the home would be contrary to the welfare of the child, or that it is in the child's best interests to be placed in foster care, or that there is no less drastic alternative than removal of the child from his home.

2. Reasonable efforts requirements.

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A court order within 60 days of entry into care must contain language that indicates reasonable efforts were made to prevent the need for removal of the child from the home.

C. The local department shall petition the court at least annually for a judicial determination, for every child in foster care, that reasonable efforts have been made to either reunite the child with his prior family if return home is the goal, or place the child in a timely manner in accordance with his permanency plan. The local department shall document the reasonable efforts made to reunify the child and family or achieve a permanent placement for the child on the initial 60-day service plan and on foster care service plans submitted for all court reviews thereafter.

D. Indian Child Welfare Act.

Children of federally recognized American Indian or Alaskan Eskimo heritage are subject to the Indian Child Welfare Act. If a local department suspects or knows that a child in foster care or one about to be placed in foster care is of federally recognized American Indian or Alaskan Eskimo heritage, the local department shall contact the tribal council. However, when a child entering care is believed or known to have Virginia Indian heritage, the local department shall contact the Virginia Council on Indians and consider tribal culture and connections in the placement and care of the child.

E. Temporary entrustment agreement.

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1. The primary goal of a temporary entrustment agreement is to return the child home or to plan for adoption.
2. The agreement shall specify the rights and obligations of the child, the parent(s) or guardian(s) and the local department. It shall include the responsibility of the parent(s) for financial support of the child and the authority of parent(s) and the local department for medical care of the child.
3. Entrustments cannot be used for educational purposes, to make the child eligible for Medicaid, to avoid abuse/neglect charges, or to obtain mental health treatment.
4. An entrustment cannot extend beyond the child's 18th birthday.
5. Parent(s) or prior custodian(s) may request return of the child to their home. The agreement is considered to be revoked unless the local department opposes the request and obtains a judicial decision that the child shall remain in foster care.
6. There are two types of temporary entrustments, those issued for up to 90 days, and those issued for more than 90 days.
 - a. Entrustments for up to 90 days.
 - (1) This type of entrustment is used when a situation related to the child or his family can be resolved within 90 days. Documentation of the plan for services is required.
 - (2) If it appears that the child will not return home within 90 days, the local department shall petition the court for a hearing to approve the service plan and entrustment no later than the 89th day after the entrustment agreement has been signed.

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b. If the local department decides to terminate the entrustment and seek court commitment during the first 90 days, the local department shall petition the court for custody and submit the service plan for approval.

3. If an entrustments will be for more than 90 days.

The local department shall petition the court for approval of the temporary entrustment agreement intended to exist for 90 days or more within 30 days of signing the agreement and the local department shall submit a service plan with the petition.

F. Permanent entrustment agreement.

1. This agreement provides a method for the parent(s) to voluntarily relinquish parental rights and gives the local department authority to place the child for adoption.

2. The local department shall petition the court within 180 days of signing the entrustment agreement to make a judicial determination that placement is in the best interest of the child and that reasonable efforts have been made to prevent removal. A service plan must be submitted with the petition.

3. Once the court approves the permanent entrustment, all parental rights are terminated, but the parents may appeal the order in accordance with the Code of Virginia §16.1-296. The parent(s) can no longer revoke the permanent entrustment agreement.

4. The adoption progress report shall be submitted to the court within six months of the court's approval of the permanent entrustment and every six months thereafter until finalization of the adoption.

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1. A local department may enter into a non-custodial foster care agreement with the parent(s) of a child.
2. The non-custodial foster care agreement shall address the conditions for care and control of the child, and the rights and obligations of the child, parent(s) or guardian(s), and local department.
3. A copy of the agreement shall be given to the parent(s) or guardian(s), to the placement provider, and be kept in the child's record.
4. The plan for foster care placement through a non-custodial agreement shall be submitted for approval by the court.
5. The local department or other public agency designated by the CPMT shall file a foster care plan with the juvenile court within 60 days following the board or public agency's placement of the child unless the court, for good cause, allows an extension of time, which shall not exceed an additional 60 days.
6. When children are placed in foster care through a noncustodial foster care agreement, all foster care requirements shall be met.
7. When another public agency other than the local department is the case manager and enters into the noncustodial foster care agreement with the parent(s) or guardian(s), the other public agency is responsible for meeting the requirements of this section and all other foster care review requirements. The local department is responsible for providing consultation to the other agency on meeting these foster care

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requirements, and for assuring the case is entered in the Department's approved case documentation system.

22 VAC 40-201-40. Foster Care Placements.

The local department has responsibility to protect the safety of each child under its care.

A. Requirements for placement.

1. The local department shall provide a placement that is appropriate for the child and shall describe and discuss the appropriateness of the placement in the service plan.

2. The local department shall place the child in the least restrictive (most family like) setting consistent with the best interests and special needs of the child.

3. The local department shall attempt to place the child in as close proximity as possible to the parent(s) or prior custodian(s) home to facilitate visitation and provide continuity for the child.

4. The local department shall place the child in a licensed or approved placement.

5. The local department shall enter into a placement agreement with the placement provider.

6. Prior to placing a child in an emergency foster home or in any home not already approved by the local department or a licensed child placing agency, or with relatives, the local department shall conduct a criminal background search and child abuse and neglect central registry check on all adults residing in the home in which the child is to be placed. Results of the check may prohibit placement of the child. Background check results shall be shared only with the person on whom the check was completed.

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7. Prior to returning a child to parent(s) from whom the child had previously been removed, the local department shall conduct a criminal background search and child abuse and neglect central registry check on all adults residing in the home in which the child is to be placed. Results of the check may prohibit placement of the child, and in such cases, the background check results shall be shared only with the person on whom the check was completed. This requirement also applies in the case of a child who is returning home after being placed outside the home as a result of a noncustodial foster care agreement.

8. The local department shall document that foster parent(s) and other providers are given educational and medical information at initial placement, each time a child is placed, and on an on-going basis in order to assure that foster parent(s) and other providers have basic medical and educational information about the child.

9. The local department may not delay or deny placement of a child into a foster family placement on the basis of race, color, or national origin of the foster parent(s) or child involved.

10. If the local department determines it is unlikely the child will return to his prior family in a timely manner, information shall be documented in the service plan regarding the opportunities for placing the child with relatives or in an adoptive home.

B. Pre-placement visits.

A service worker shall make a pre-placement visit to any out-of-home placement to observe the environment where the child will be living.

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1. The pre-placement visit shall precede the placement date except in cases of emergency which shall be documented in the case narrative. In such emergency situation, a pre-placement visit may be the day of placement.

2. When a child is to be placed outside of Virginia, the preplacement visit shall be following ICPC procedures.

C. Foster family homes.

1. Foster family homes shall meet standards established by the Board and shall be approved by local departments or licensed child placing agencies prior to placement of the child. A copy of the foster home approval and reapproval shall be maintained in the child's record, including those homes approved by a licensed child placing agency.

2. An employee of a local department cannot serve as a foster or adoptive parent for children in the custody of that local department. The employee can be a foster or adoptive parent for another local department or licensed child placing agency.

3. Multiple local department foster homes.

a. Homes may be providers for more than one local department.

b. Local departments placing a child into a foster home approved by another local department shall obtain prior written approval for each child they wish to place.

4. Foster homes providing multiple types of care.

Homes may be providers of regular, emergency, specialized, therapeutic and permanent foster care at the same time when:

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a. The foster parent(s) demonstrate they can handle the different service needs of the children; and

b. Services to children in on-going placement are not disrupted by emergency placements.

5. An emergency foster home is a foster family home where a child may be temporarily placed until a more appropriate placement is found or the home is approved.

6. Regular foster home.

This is a foster family home that has been approved and is being paid to provide basic maintenance, supervision, and parenting.

7. Relative foster home.

This is a foster family home of relatives. These homes shall fully meet foster home standards as long as the child is in foster care.

8. Specialized foster home.

A specialized foster home is a local department approved foster home where the local department has elected to pay an additional service payment due to the difficulty of care of a child with special needs.

9. Therapeutic foster home.

This is a trained foster parent, providing care through a licensed child placing agency or local department's defined foster care therapeutic program.

D. Foster home approved by a licensed child placing agency.

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This is a foster family home approved by and provided through a private child-placing agency. The local department shall maintain a copy of the licensed child placing agency's current license in the child's foster care record.

E. Treatment foster care program home.

This is foster family home approved by a local department or a licensed child-placing agency and enrolled by the Department of Medical Assistance Services (DMAS) to provide Medicaid reimbursed treatment foster care case management services for children.

F. Adoptive Home

This is a home which has been approved by a local department or private licensed child placing agency for the placement of a child with the intent to adopt.

G. Independent living placement.

An independent living placement is a placement of a youth in foster care, who is at least 16 years old, that does not provide daily parental supervision.

1. In determining whether an independent living arrangement is the best plan for a foster youth, service workers must conduct an assessment to determine whether the placement is in the best interests of the youth.

2. The services worker shall make an on-site visit to approve the living arrangement.

H. Residential placement.

1. Prior to placement, the local department shall verify that the residential placement facility is licensed by the appropriate licensing agency. A copy of the license shall be

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maintained in the child's record, along with documentation that criminal background and central registry checks have been completed on all employees.

2. Priority shall be given to facilities that provide services to return children to the community.

3. The local department shall coordinate the placement with the school division to assure that the child's educational needs are met.

I. Interstate placements.

1. The local department shall receive approval from the Department's Office of the Interstate Compact on the Placement of Children prior to placing a child out of state.

2. When the plan is to permit a foster child to move with a foster parent(s) from Virginia to another state, the Department shall obtain the Commissioner's consent prior to allowing the move.

J. Placements in another local department's jurisdiction.

1. When a child is to be placed in a home in another local department's jurisdiction within the state and the local department in that community has not approved that home, the local department holding custody shall:

a. Notify the local department where the home is located that the home is being considered for the child's placement;

b. Conduct a study and approve the home or request that the local department in the receiving locality study and approve the home;

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c. Request the local department in the receiving locality supervise the child or notify them that the local department holding custody will supervise; and

d. Notify the school division in the new locality as well as the school division the child is leaving within 72 hours of placement.

K. When foster parent(s) move to another jurisdiction.

When a child moves with a foster family from one local department's jurisdiction to another in the state, the local department holding custody is responsible for continuing supervision of the child unless supervision is transferred to the other local department.

The local department holding custody shall notify the local department in the county or city to which the foster family moves.

L. Transferring custody to another local department.

If a local department is considering transferring custody of a child to another local department because the parent(s) or guardian(s) has moved to that locality, the local department shall submit a petition to the court requesting approval of the transfer of custody.

M. Notification of placement changes.

All parent(s) with residual parental rights or prior custodian(s) shall be notified in writing of any change in placement or visitation privileges within 10 days of such a change.

22 VAC 40-201-50. Foster Care Case Opening.

The Department shall approve one specific official case documentation system in which all foster care and adoption cases shall be documented.

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A. Case opening requirements.

1. Information for every child in foster care shall be entered into the Department's approved case documentation system as soon as possible but no later than 30 days after the child's custody is transferred to the local department or he is placed in foster care. The service worker is responsible for entering and updating all case data in the Department's approved case documentation system as soon as possible but no later than 30 days after each activity or event.

2. Paper case records for the child.

The Department's approved case documentation system contains the official case record for all foster care cases, and is supplemented with forms, letters, and other original hard copy documents which shall be retained in the paper case record.

a. A required paper case record format includes the following identifiable divisions and corresponding tabs, and shall contain the identified key documents:

(1) Referral:

(a) Referral for determining eligibility for Title IV-E funding and Medicaid;

(b) Medical and mental health examinations;

(c) Child support referral;

(d) Social Security Disability (SSI); and

(e) Any other governmental benefits.

(2) Personal documents:

(a) Birth verification;

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(b) Social security card and/or application;

(3) Legal documents with original signatures:

(a) Petitions;

(b) Entrustments;

(c) Court orders; and

(d) ICPC Forms.

(4) Service plans:

(a) Foster care service plan;

(b) IFSP; and

(c) Transitional living plan for older youth in care.

(5) Agreements with original signatures including:

(a) Non-Custodial foster care agreements;

(b) Foster family home placement agreements;

(c) Respite care agreements; and

(d) Permanent foster care agreements.

(6) Reports, including:

(a) Social histories;

(b) School reports (including referrals for special education assessment or services);

(c) Medical reports;

(d) Psychological reports; and

(e) Quarterly provider reports.

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(7) Residential placement information, including:

(a) Application; and

(b) Placement reports.

(8) Correspondence, in chronological order, including:

(a) Notice of visitation and visitation arrangements;

(b) Notice of placement change;

(c) Notice of an administrative panel review;

(d) CPS summary or affidavit; and

(e) Other correspondence.

(9) Adoption documents:

(a) Termination of Parental Rights Order;

(b) Adoption Assistance Agreement (if applicable);

(c) Adoptive home placement agreement; and

(10) Purchase orders and invoices.

3. Case record for the foster family.

Basic demographic information about all foster families (public and private) shall be entered into the Department's approved automated case documentation system. The paper case record for the local department approved foster home shall include all forms and information gathered during the home study-evaluation and approval process.

B. Referrals for maintenance: Title IV-E and state pool funds.

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All children in foster care placement are eligible to receive room, board, and supervision. Funding sources for paying the costs of maintenance and procedures for determining the source to be used are described below.

1. Title IV-E eligibility referral requirements.

a. All children in foster care shall be referred for an initial determination of Title IV-E eligibility by services staff within 10 calendar days of the court commitment order, or the date the voluntary entrustment agreement is signed, or the date the non-custodial agreement is signed.

b. To determine Title IV-E eligibility, the child's case shall be in compliance with federally determined eligibility requirements as described in the Department's Title IV-E Eligibility Manual.

2. Special regulations governing entrusted children.

a. Funding from Title IV-E is limited to 180 days for children in custody pursuant to a voluntary entrustment agreement unless the agreement has been approved by the court and the court order contains the necessary best interests and reasonable efforts statements.

b. For a child who is permanently entrusted to be eligible for Title IV-E foster care and subsidy, there shall be:

(1) A court hearing within 180 days of the permanent entrustment;

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(2) A judicial determination and statements on the court order that reasonable efforts were made to prevent removal and that the placement is not contrary to the welfare of the child; and

(3) A Title IV-E payment made during the temporary entrustment period if the case was initially a temporary entrustment.

c. Failure to meet requirements of this section will result in the child being ineligible for Title IV-E funding. Costs for the child's placement shall then be paid from state pool funds.

C. Referral for determination of Medicaid eligibility.

1. Funding for medical services is from state and federal funds provided through DMAS. Service workers are responsible for submitting required documentation for Medicaid eligibility to the eligibility worker within 10 days of date of placement.

2. Informing Medicaid of changes.

Eligibility for Medicaid is redetermined annually. However, the service worker shall provide the eligibility worker with any new information that might affect Medicaid eligibility within 10 days from the date of the change.

D. Referral for collection of child support.

1. The local department is responsible for following the policies and procedures of the Division of Child Support Enforcement (DCSE).

2. In cases where the foster care plan has the goal of returning the child to the parent(s) and collection of support will interfere with achieving that goal, the service worker may

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claim “good cause” for the parent(s) to whom the child is to return. Claiming good cause shall result in the case not being pursued by DCSE for collection of support.

E. Arranging visitation with parent(s) or prior custodian(s) and siblings.

Efforts to maintain contact with the parent(s) or prior custodian(s) and siblings in accordance with the goal for the child shall begin as soon as the child is placed in foster care. If the local department wishes to terminate visitation, it shall obtain court approval. If the plan for visitation changes, parent(s) shall be notified in writing.

F. Referral for services.

The service worker is responsible for referring the child and family to appropriate services identified through the assessment and service planning processes.

G. SSI and other potential benefits.

1. The service worker is responsible for determining all financial resources available to the child, including SSI, governmental benefits, and private resources.

2. The service worker is also responsible for assessing whether a child in care may be eligible for other benefits and referring that child for eligibility determinations within timeframes set by the Department.

H. Obtaining a medical exam.

The service worker is responsible for ensuring that the child receives a medical examination no later than 60 days after placement.

I. School enrollment requirements.

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1. The service worker shall work with the school in the locality where the child is placed to ensure that the child is enrolled in school within 72 hours after placement.

2. Local departments will allow children to remain in their previous school placement when it is in the best interest of the child to do so.

3. When a school change is necessary, the service worker, in cooperation with the parent(s) and foster care providers, will coordinate the school placement.

J. Setting up the payment process for providers.

The service worker is responsible for ensuring that the foster parent(s) and other service providers receive appropriate and timely payments according to Departmental policies and procedures.

22 VAC 40-201-60. Initial Assessment.

A. Initial Assessment Requirements.

1. The needs of the child and the circumstances of the birth family or prior custodian(s) shall be assessed to determine the service needs of the child and family. The initial assessment shall:

a. Be completed within 60 days of acceptance of the child for foster care placement;

and

b. Be entered into the Department's approved automated case documentation system.

B. Reassessments.

Reassessments shall occur every six months after placement for as long as the child remains in foster care.

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22 VAC 40-201- 70. Choosing the Foster Care Goal.

A. Foster care goals are established in order to assure permanent planning for the child.

B. The service plan for the child shall:

1. Specify one of the approved permanency goals. The foster care goals are hierarchical, indicating the order in which the goal shall be addressed by the local department. Goals, in order of priority, are:

1. Return to parent(s) or prior guardian.

2. Placement with relatives.

3. Adoption.

4. Permanent foster care.

5. Independent living.

6. Another planned permanent living arrangement.

7. Continued foster care.

Continued foster care is not a permanency goal and should only be chosen when all others goals have been excluded and the reason(s) for their exclusion is documented in the automated case management file.

22 VAC 40-201- 80. Preparing the Initial Service Plan.

The service plan describes the needs of the child and family and identifies the services that will be provided to meet these needs so that the permanency goal can be achieved.

A. There shall be a service plan for every child in foster care.

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Any appropriate service shall be made available to a foster child when that service is documented as needed in the child's foster care service plan

B. The service plan shall include:

1. The reasons the child came into care and why placement is needed;
2. The services offered to prevent removal of the child from the home of the birth parent(s)/prior custodian(s);
3. The child's situation at the time of placement in relation to the child's family;
4. Information regarding the child's health and educational status;
5. The nature of the placement that will be provided the child;
6. The efforts made to place the child in the least restrictive setting available;
7. The needs which shall be met to achieve the goal for the child;
8. The programs, care, services and other support which will be offered to the child and parents and other prior custodians;
9. A plan for visitation between the child and parent(s) and siblings;
10. The permanency goal selected for the child;
11. For teens 16 or over, the specific independent living services to meet the needs of the youth;
12. Target dates for completion of the services provided to the child, the parent(s)/prior custodian(s), and foster parents;
13. The projected date for goal achievement;

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14. A description of how the child, parent(s) or prior custodian(s), or foster parent(s) were involved in the planning process. A description of why the parent(s)/prior custodian(s) were not involved in the planning process shall also be included when appropriate.

15. When the child cannot be returned to parent(s) or prior custodian(s), a description of the reasons the child cannot return home and a plan to lead to termination of parental rights within the specified time frames; and

16. A description of efforts made to place siblings together.

C. A full service plan on all children shall be completed and filed in the case record within 60 days of custody or placement (whichever comes first) of a child through court commitment, noncustodial foster care agreement, or a permanent entrustment agreement or, within 30 days of signing of a temporary entrustment for a placement of 90 days or more.

1. For children entering care through a court commitment for abuse or neglect, the local department shall file the plan with the petition for the dispositional hearing or, when there has not been a previous court hearing, within 75 days of when the child entered foster care.

2. If a child is entrusted, the local department shall file the plan with the petition to approve the entrustment agreement.

3. The local department shall provide the court with sufficient information to ensure that parent(s) receive notice of the dispositional hearing.

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4. A new plan is required when there is a change in the permanency goal, when there is a permanency planning hearing, and when a child returns from a commitment to the Department of Juvenile Justice (DJJ).

a. When a child's legal custody has been returned from the local department to the parent(s) or prior custodian(s) and the child returns to local department custody and into a foster care placement, it shall be considered a new placement and a new service plan shall be developed.

b. When a child returns home to the parent(s) or prior custodian(s), but remains in the custody of the local department and then returns to foster care placement, it shall be considered a new placement if the child was home for six months or longer and a new service plan shall be developed. If the child was home for less than 6 months and returns to an out-of-home placement, the child shall be considered to be in the original placement and a new service plan is not required.

22 VAC 40-201- 90. Service Delivery.

The permanency planning process begins when the first contact is made with the child and family and continues until the safety, permanency and well-being of the child is assured, the goal is achieved, and services are terminated.

A. When the goal is return to parent(s) or prior custodian(s), permanency planning requires that any and all necessary services are provided to implement this goal.

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1. Services to the parent(s) or prior custodian(s) shall continue until the child is returned home, the court case is dismissed; or the court approves another foster care goal for the child.

2. Local department workers shall have a minimum of monthly face-to-face contact with the parent(s) or prior custodian(s) to whom the child is expected to return.

B. When the goal is adoption, services shall be provided to prepare the child for adoption and to achieve the goal of adoption. All parental rights shall be terminated and the local department shall have legal authority to place and consent to the child's adoption.

a. The petition shall specifically request that parental rights of the parent(s) be terminated and that the local department be given the authority to place and consent to adoption of the child.

b. The local department shall provide the court with sufficient information to provide legal notice of the petition to all persons with a legitimate interest.

c. The child remains in custody of the local department and is eligible for foster care services until the final order of adoption.

d. The adoption progress report shall be submitted to court six months following termination of parental rights and every six months thereafter until the adoption is final.

3. Adoptive planning shall:

a. Reflect the child's need to be in a permanent placement as soon as possible.

b. Recognize the importance of placing siblings in the same adoptive home.

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c. Consider foster parent(s) with whom the child has developed emotional ties as a primary adoptive resource for the child.

4. When a family is selected, full, factual information that the local department has about the child and the child's birth family, except that which would reveal the identity of the child's birth family, shall be provided to prospective adoptive parents.

5. The goal of adoption is achieved when the final order of adoption is entered.

C. Permanent foster care.

1. The purpose of permanent foster care is to maintain the child in the foster home in which the child and foster parent(s) have already established an attachment by strengthening the legal bond between the child and foster family. Permanent foster care provides greater rights and responsibilities to the foster family that regular foster parent(s) do not have, including the authority to give consent to:

a. Application to college;

b. Entrance into the military;

c. Marriage;

d. Driver's license; and

e. Surgery.

2. The roles and responsibilities of the local department, foster parents, birth parent(s) and, if appropriate, the child shall be defined in a mutually developed and signed agreement.

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3. The child shall be age 12 or over. In some limited circumstances permanent foster care may be appropriate for younger children. In these situations, approval from the Department shall be obtained before the petition is filed.

4. The local department is responsible for:

a. Conducting at least one face-to-face visit with the child in the child's home at least every six months.

b. Reviewing the case plan and progress made through alternating administrative panel reviews and a court hearing every six months.

c. Maintaining involvement of the birth family, if possible.

D. Independent living.

1. The focus of services is to assist older teens in acquiring skills to become self-sufficient and transition from foster care to independence.

2. All youth, 16 or older, regardless of their permanency goal, shall have a transitional independent living plan which describes the services that will be provided to prepare them for independence. Youth shall be supported and encouraged to participate in designing their transitional independence plan and take responsibility for achieving independence.

3. Preparing youth for independence requires accurate assessment of their skills and needs and targeted service provision.

4. Service planning for older youth shall be done in accordance with 22 VAC 40-201-140.

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E. Another planned permanent living arrangement.

This goal provides long term residential treatment for children with a severe and chronic emotional, physical or neurological disabling condition.

F. Continued foster care.

1. This goal is not a permanency goal and shall only be used when all other goals are found to be inappropriate.

2. Services provided shall be focused on establishing a permanency goal for the child.

G. Local department responsibilities to foster parent(s) and providers.

1. Foster parent(s) and providers should be contacted by local department service workers as often as needed but at least monthly. Permanent foster homes approved for the permanent placement of a specific child shall be contacted at least every six months.

2. Foster parent(s) and providers shall be given the opportunity to participate in all meetings and conferences related to service planning for a child in the home or placement.

3. Foster parent(s) and providers shall be given information they may need about the child, and shall keep this information confidential. Foster parent(s) and providers shall be given appropriate sections of the foster care service plan and educational and medical information about the child.

4. Foster parent(s) and providers shall be given notice, whenever possible, as specified in the placement agreement, when a change in placement is to occur.

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H. Worker contact with children in foster care.

Workers shall have a face-to-face visit with the child including those youth in independent living situations, at least monthly.

1. At least one face-to-face visit per quarter shall occur in the child's place of residence.

2. When courtesy supervision is provided by another local department, that local department is responsible for the visits.

3. Children in an approved permanent foster home shall be visited by the local department worker at least once every six months, in the permanent foster home.

4. Ongoing annual visits with a child placed outside Virginia with relatives, in a foster home, or an adoptive home:

a. May be made by the agency in the receiving state authorized by the ICPC to provide supervision.

b. The worker from the agency providing supervision shall have a face-to-face visit with the child at least annually in the child's home or placement.

5. Annual on-site visits are required for children placed in out-of-state residential facilities.

6. Workers are required to document contacts with children in the Department's approved automated case documentation system.

I. Services to older youth in foster care.

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1. Opportunities for independent living activities, services, and learning experiences for youth ages 16 to 21 years, shall be provided to youth in foster care no matter what their permanency goal.

2. Independent living activities are not an alternative to permanence for any youth.

They should be provided to youth while concurrently pursuing return home, adoption or other permanency goals.

3. A youth placed in foster care before the age of 18 may continue to receive services from the local department between ages 18 to 21 if:

a. The youth willingly agrees to remain in placement and cooperate with all services and this is documented in the case record; and

b. The youth is making progress in an educational, treatment or training program; or

c. The youth is in permanent foster care, requires continuing foster care assistance to participate in an educational, training, or treatment program, and wishes to remain in foster care.

J. Consent for medical treatment for children in foster care pursuant to the Code of Virginia §54.1-2969.

1. Where possible, the parent(s) of a child who is committed or entrusted to a local department shall always be involved in the medical planning for the child.

2. When the parent(s) are not available, or their consent cannot be obtained immediately, a court order is required for major medical/surgery treatment.

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a. If the court order is not readily available, the local department superintendent, director or his designee may consent.

b. The local department may obtain blanket authority from the court to consent to medical treatment and surgery. This blanket authority shall be in writing and signed by the judge.

3. The Code of Virginia §54.1-2969 (E) deems the child in foster care an adult who may consent to specific medical services as defined in this section of the Code.

K. Medical care and treatment to be provided to a child in foster care placement.

1. A medical examination of the child shall be obtained no later than 60 days after placement, commitment or entrustment.

2. Annual routine medical and dental examinations for children four years of age and over shall be provided.

3. Medical care shall be provided for the child who is ill or injured or has ongoing medical treatment for the child with physical, mental or emotional disabilities.

L. Providing services during residential placement.

1. Local department staff shall:

a. Maintain telephone contact with the facility staff to coordinate services as often as possible but no less than once a month.

b. Encourage and assist with regular visits between the child and parent(s) and the child and siblings.

c. Inform parents of their child's progress and needs while in placement.

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d. Complete documentation of every visit and contact in the Department's approved automated case documentation system.

e. Develop a plan to transition the child back to the family or community.

2. Local departments shall require residential facilities to provide the following:

a. A treatment plan for the child within 30 days of child's placement in the residential facility;

b. Notification to the local department of the child's progress and behaviors, including any serious incident, while the child is in residential care through regular reports.

M. Respite care services.

Respite care for foster parent(s) can be provided on an emergency or planned basis in accordance with criteria determined by the Department.

22 VAC 40-201-100. Reviewing the Service Plan.

A. Service plans for children in custody or foster care placement shall be reviewed to assure the effectiveness of permanency planning for every child. A formal review shall be held at least every six months. The types of reviews are:

1. The foster care review hearing;

2. The permanency planning hearing;

3. The administrative panel review; and

4. The supervisory review.

B. Parental attendance at court hearings.

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The local department is responsible for providing the court with as much information as possible as to the names, addresses, and any other contact information on parent(s) and previous caretaker(s) who should be given notice of the next hearing. Parents whose rights have been terminated do not receive notice. The local department is responsible for providing the court with as much information as possible as to the names, addresses, and any other contact information for foster parents, pre-adoptive parents, the child, and other interested parties who should be notified of every hearing.

C. First foster care review hearing.

1. The purpose of the first foster care review hearing is to review the progress made on the initial foster care service plan or make changes in the plan.

2. Within five months of the dispositional hearing at which the foster care plan was reviewed, the local department shall submit to the court:

a. A petition for a foster care review hearing;

b. A foster care service plan reassessment which shall include any updates to the initial foster care service plan;

c. Information listing individuals who should receive a copy of the petition and/or be notified of the hearing. These include at least: the child, the parents, guardian, or prior custodian(s); the guardian ad litem; the foster parents; and any other interested parties.

D. Permanency planning hearing.

The purpose of this hearing is to establish a permanent goal for a child and either to achieve the permanent goal or to defer such action through the approval of an interim

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plan for the child. The local department shall file a petition for a permanency planning hearing within ten months of the dispositional hearing at which the foster care plan was reviewed, and shall submit to the court:

1. A petition for a permanency planning hearing requesting the court take one of the actions in accordance with §16.1-282.1, permanency planning hearing for children in foster care.

2. Information listing individuals who will receive the foster care service plan and/or be notified of the hearing. These include the child, if age 12 and over; the guardian ad litem; child's parent(s) or prior custodian(s); parents' attorney(s); foster parent(s); pre-adoptive parent(s); and other interested parties the court directs, such as attorneys for the local department, or the Court Appointed Special Advocate (CASA).

3. A foster care service plan reassessment and a new foster care service plan are required at the permanency planning hearing depending on the foster care goal and status toward achieving the goal. Foster care goal related requirements for new service plans are:

a. When the goal is return home or placement with relatives with subsequent transfer of custody, and the court does not approve the transfer of custody, the local department shall develop a new foster care service plan identifying how it will achieve the goal for the child in the next six months.

b. If the local department decides that it is in the best interests of the child to ask for the local department to continue having custody of the child and the goal is either return

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home, placement with relatives, or continued foster care, the local department shall describe in the new service plan how the local department intends to accomplish the goals of return home or placement with relatives in the next six months.

c. If the goal is continued foster care, the local department shall identify a new goal and describe how it will achieve that goal in the next six months.

d. If the local department does not petition for termination of parental rights at the initial permanency planning hearing, it shall defer such action through the approval of an interim plan for the child pursuant to the Code of Virginia §16.1-282.1 and document in the foster care service plan one of the following exceptions:

(1) Termination of parental rights is not in the best interests of the child which requires that the local department document a compelling reason explaining why termination is not in the best interests of the child;

(2) The child is being cared for by a relative; or

(3) The local department has not provided services to the parent(s) deemed necessary for the safe return of the child.

e. When the local department petitions for termination of parental rights, it shall:

(1) File a petition which states termination of parental rights is in the best interests of the child; and

(2) File a service plan with the goal of adoption.

E. Subsequent permanency planning hearing.

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This hearing occurs within six months of the first permanency planning hearing when a permanency goal or plan has not been achieved by the first permanency planning hearing. A second permanency planning hearing occurs when the court approved the goal of return home, placement with relatives, or continued foster care at the initial permanency planning hearing. The same requirements apply to this hearing as apply to the first permanency planning hearing.

F. Foster care review hearings after a permanency goal is approved.

The purpose of these foster care review hearings is to review progress in cases where the permanency goals of reunification, placement with relatives, adoption, permanent foster care, independent living, or another planned permanent living arrangement has been approved.

1. Where the goals of return home, placement with relatives, adoption, or independent living are approved, the foster care review hearings are held at least annually after the permanency planning hearing. Administrative panel reviews are held at six-month intervals between these yearly court reviews. These court hearings are discontinued once the final order of adoption is issued or the child turns age 18.

2. Where the goal of another planned permanent living arrangement is approved, foster care review hearings shall be held at least every six months.

G. Permanent foster care and reviews.

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1. Once a child is placed in a court approved permanent foster care placement with a permanent foster family named in the court order, annual foster care review hearings shall be held.

2. Permanent foster care cases are subject to administrative panel reviews which shall occur every six months, between the annual judicial reviews.

H. Administrative panel reviews.

1. An Administrative Panel Review (APR) shall be held six months after a permanency planning hearing when the goals of adoption, permanent foster care or independent living have been approved by the court.

a. The local department shall invite the child, the child's foster parent(s), adoptive parent(s), Guardian ad litem, CASA, and other placement providers to participate at the APR.

b. The child will continue to have APR's alternating with annual foster care review hearings until a final order of adoption is issued or the child reaches age 18.

2. Composition of the review panel.

a. The local department is responsible for ensuring the APR is conducted by a panel of appropriate persons at least one of whom is not responsible for the case management or delivery of services to either the child or the parent(s).

b. The local department is responsible for having outside objective panel members participating in the APR.

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c. The local department is required to do all that is possible to encourage the participation of these individuals in the APR process in order for them to provide input.

d. Parent(s), minors, the child's foster parent(s), attorney or friends of parents cannot be members of the panel.

3. The FAPT staffing may substitute for an APR as long as the requirements for the APR are met.

4. Results of the APR.

a. The local department shall consider all recommendations made by the panel in planning services for the child. At the APR, the panel shall address and make recommendations, when needed, concerning the following:

(1) Appropriateness of the services provided during the preceding six months;

(2) Appropriateness of the child's current placement;

(3) Extent of the local department's, parent(s)', child's, and foster care provider's compliance with the service plan;

(4) Any barriers to goal achievement;

(5) Appropriateness of the program goal for the child and of the date for goal achievement; and

(6) Continuing need for placement.

b. The findings of the panel and any recommendations made by the panel, including changes to the service plan, shall be recorded in the Department's approved case documentation system.

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c. The birth parent(s)/prior custodian(s), foster parents, or other providers not in attendance shall be given or offered a copy of the results of the APR as documented on the Department approved form for this review.

5. Hearings that substitute for an APR.

a. A foster care review or permanency planning hearing may substitute for the APR.

b. Another type of court hearing may substitute for an APR if:

(1) The parent(s) are notified of the hearing.

(2) The APR process and results are documented in the Department's approved case documentation system and includes:

(a) The date the hearing was held; and

(b) An indication that this hearing was held in lieu of an APR.

(3) The court makes a determination in regard to:

(a) The continuing need for and appropriateness of the placement.

(b) The extent of all parties' compliance with the case plan.

(c) The extent of progress which has been made toward alleviating the conditions which brought the child into care.

c. The court order will serve as documentation of the APR in this situation and no additional forms are required.

I. Supervisory reviews.

A supervisory review is required every six months for children placed in their own homes, but still in the custody of the department, and for youth ages 18-21. When a

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child returns home after being in a foster care placement and remains in the custody of the local department, the supervisory review shall be scheduled six months from the last APR.

J. Exceptions to required reviews.

1. Hearings when cases are on appeal.

When a case is on appeal for TPR, the juvenile and domestic relations district court retains jurisdiction on all matters not on appeal. The circuit court appeal hearing may substitute for a review hearing if the circuit court adjudicates the future status of the child.

2. Children committed to DJJ.

a. Children formerly in local department custody who have been committed to DJJ are not subject to APR's or court review hearings during their commitment.

b. Children committed to DJJ who return to foster care are subject to APR's and the appropriate court review hearing.

K. Developing the plan when the goal is changed to adoption.

At the initial permanency planning hearing, the local department shall file a petition with the court 30 days prior to the hearing to terminate parental rights, along with the foster care service plan. Additional information as directed by the Department may need to be gathered. This information is critical as it will serve as a basis for identifying adoption services, will be used in the selection of an appropriate adoptive home, and will be the only information available to the child after adoption about the child's birth family and

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background. If any of this information is missing from the foster care record, one of the services that shall be identified on the new plan is to obtain the missing information.

L. Redeterminations.

1. Redetermining Title IV-E eligibility.

Eligibility shall be re-determined at least annually or upon change in situation and in accordance with federal Title IV-E eligibility requirements and Department procedures.

2. Redetermining Medicaid eligibility.

The service worker is responsible for providing the Medicaid worker information required for the annual redetermination of eligibility and information related to changes in the child's situation.

22 VAC 40-201-110. Closing the Foster Care Case.

A. Terminating court commitments.

There are 3 ways court commitments are terminated:

1. Through court order when parent(s)/prior custodian(s), relatives, or the local department petition the court requesting termination and the court transfers custody;
2. A child, 18 to 21 years of age or older, committed as abused and neglected or in need of services, requests to be released; or
3. The court terminates custody at the time of a dispositional or other hearing.

B. Termination of noncustodial foster care agreements.

1. Noncustodial foster care agreements are terminated at the request of the parent(s)/prior custodian(s) if the following conditions are met:

PERMANENCY SERVICES-PREVENTION, FOSTER CARE, ADOPTION, AND
INDEPENDENT LIVINGa. A criminal background check and child abuse and neglect central

registry check shall be completed on all adults in the home prior to the return of the child from an out-of-home placement. The local department shall evaluate the results of the background and registry checks to determine whether any criminal background or abuse/neglect history exists to preclude the safe return of the child.

b. In those cases where the judge has heard and approved the noncustodial foster care agreement, termination of the noncustodial foster care agreement is not effective until the judge agrees to and documents the termination of the agreement.

2. The local department may petition the court for custody should the local department disagree with the request for return of the child.

C. Discharging a child from care.

1. The foster care case shall be closed in the Department's approved case documentation system as soon as possible, but no later than 30 days after the child leaves care of the local department.

2. Record retention at closure.

a. When the foster care paper case record is closed for services, the record shall contain all court orders, assessments, service plans, administrative panel reviews, and a brief closure statement identifying when the case was closed, placement of the child, and child and family adjustment. Pertinent documents including, but not limited to, eligibility determinations, medicals, and educational and social history shall also be retained.

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b. Personal items belonging to the child should be given to the child.

c. When closing a case in the Department's approved case documentation system, the final case contact should reflect the case disposition at case closure, a summary of services in place at termination, child and family adjustment, over-all case progress, and a summary of the final court hearing.

3. Length of time records shall be retained after closure.

Agencies shall maintain paper and electronic case records in accordance with regulations promulgated by the Library of Virginia.

4. Access to records after closure.

Any foster care youth who has reached age 18, has not been adopted, and has not had parental rights terminated shall have the right to request and receive information from his record, including information about parent(s) or relatives. If a youth has not been adopted, has reached age 18, and has had parental rights terminated, he shall have access to his records, but not to identifying information pertaining to his biological family, except by order of the circuit court.

5. Emancipation of youth before age 18.

Youth who are at least age 16 years of age may be legally emancipated at a court hearing held pursuant to the Code of Virginia §16.1-331 et. seq.

22 VAC 40-201-120. Funding.

A. Paying for maintenance .

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1. Payment for maintenance for children in foster care is made by Title IV-E or state pool funds for non Title IV-E eligible children.

2. Agencies are not permitted to increase the basic maintenance rates to foster parents. Specialized payments to regular foster parents, who are not part of a therapeutic program, are considered service payments and cannot be paid by Title IV-E funds.

3. Duplicate payments for maintenance cannot be made.

4. To determine if payments to foster parents for children under the age of 19 are to be considered income for federal or state tax purposes, refer to the Department of the Treasury, Internal Revenue Service Guidance Publications.

5. Title IV-E is used to pay all maintenance costs when all federal guidelines for eligibility are met.

B. Paying for children supervised by another state agency.

1. Payment for the costs of maintenance and social services is the responsibility of the local department holding custody of the child or having accepted placement of the child.

2. Certification of a child to a state mental health facility does not relieve the local department of custody.

a. Room, board and medical costs are not the responsibility of the local department unless the department maintains custody.

b. Costs of clothing and personal care items shall be paid by the local department holding custody.

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3. The DJJ is responsible for the maintenance and care of the child committed to its care. Payments cannot be made by the local department for maintenance of the child at the DJJ facility.

C. Children placed in out-of-state foster homes.

1. Payment for non-Title IV-E eligible children is from state pool funds at the rate set by the other state.

2. Payment from Title IV-E is at the standard rate for Virginia. Where this rate is not acceptable to the other state, payment of Virginia's maintenance rate is from Title IV-E funds, with the balance paid from state pool funds as a specialized payment.

3. The foster homes shall meet standards for care set by the other state.

D. Paying maintenance for the child of a foster child.

1. If a foster child has a child and the child remains in the custody of his foster child parent, the child shall be eligible for a foster care maintenance payment if he remains in a foster home or residential facility with his parent or comes to live in a foster home or residential facility with his parent. The child shall not be eligible for Temporary Assistance for Needy Families (TANF). Maintenance costs of the child of a foster child are to be paid out of the same pool of funds as the foster child's maintenance costs.

2. If the child of a foster child has his own resources (i.e. SSI, SSA, or child support) these resources shall be used toward the maintenance cost.

E. Paying for independent living placements.

1. The standard statewide payment is made from state pool funds.

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2. The payment covers the cost of maintenance.

F. Paying for services using state pool funds.

Any child placed through a noncustodial foster care agreement, committed or entrusted to a local board of social services or for whom a local department is given responsibility for aftercare supervision is eligible for state pool funds which may, if needed by the child, fund:

a. Maintenance and services for a child placed outside of his own home.

b. Services for a child living in his own home (pre and post placement) in the custody of the local board.

G. Purchase of services from foster parents.

These are services provided by foster parent(s) to meet the special needs of a child and are distinct from basic maintenance and supervision of the child. The provider(s) shall be qualified through training or experience to provide the special services required. The child's record shall document the special physical, mental or emotional problems of the child, which require the need for service.

H. Expenses paid by foster parent(s) on behalf of the child.

Local departments shall reimburse foster parent(s) for expenses paid by them on behalf of the foster child when the services are pre-authorized.

I. Purchasing foster home recruitment, study, approval and placement with state pool funds. The recruitment, screening, study and development of foster family homes and

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placement services may be purchased from licensed child placing and other agencies.

The purchase shall be on behalf of a specific child.

J. Purchasing regular education services.

1. Children in foster care are considered to be indigent and eligible for free textbooks and workbooks.

2. Other educational services needed by the child and not provided by the school division may be purchased using state pool funds.

3. Regular education services may be purchased when:

a. They are needed to achieve an educational goal;

b. They are not the responsibility of State and/or education agencies;

c. Services are not available without cost; and

d. Charges for services are the same to all residents of the locality regardless of income.

4. Expenses related to school activities that are not necessary to meet an educational goal may be purchased with state pool funds based on CPMT procedures.

K. Paying for special educational services.

When a child is placed in another jurisdiction, agencies shall follow the funding guidelines established by the Virginia Department of Education for any children receiving foster care services.

L. Use of state pool funds for special education services.

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State pool funds are to be used to purchase special education and related services for a child placed in a residential facility approved for special education or private special education day school in accordance with the child's IEP. Procedures to access state pool funds for these placements will be based upon CPMT policies. The local department, in coordination with the FAPT, is responsible for ensuring that an appropriate placement is provided for the child. State pool funds may pay for special education services when it is determined that a child has additional special education needs not included on the IEP.

M. Paying for care in a residential facility.

The cost of maintenance for a child placed in a residential facility is paid from Title IV-E or state pool funds for non-Title IV-E children. Services provided in a residential facility will be paid from state pool funds.

N. Purchasing transportation services.

Transportation may be provided from state pool funds, Medicaid, or Title IV-E in accordance with federal and state guidelines for use of these funds.

O. Purchasing day care services.

Child day care services for foster children may be purchased in a licensed day care facility or home, using Title IV-E or state pool funds, in accordance with federal and state policy for use of these funds.

P. Paying for independent living program services.

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Independent living program services are paid from the local department's allocation of the Chafee Foster Care Independence Program funds. The local department shall have an approved independent living program plan before funds may be obligated.

Independent living program funds shall not be used to pay for maintenance.

22 VAC 40-201-130. Other Requirements.

A. Confidentiality of records.

The records of children in foster care are confidential and information about children in foster care or their parent(s) or relative(s) is confidential. The local department may disclose information upon order of the court or when the local department determines that the person has a legitimate interest in accordance with state and federal law and regulation and it is in the best interests of the child to release the information.

B. Travel of foster children.

Out-of-country travel may be approved at the option of the local department when the director of the local department gives written approval for a child going out of the country. The local department shall obtain written approval from the parent(s) or custodian(s) if whereabouts are known and parental rights have not been terminated.

The local department-approved sponsor of the out-of-country trip shall provide the local department with the contact information where the child and/or sponsor can be reached.

Proper passports, visas or other requirements for traveling out of the country shall be obtained. Written assurances shall be obtained that the sponsor will provide for the

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health, safety and legal needs of the child during the trip. The local department shall provide the sponsor with authorization to obtain medical care.

C. Requirement for approved child restraint devices.

1. Children age five and under, transported in a car by local department staff, foster care providers, or any adult transporting a child, shall be secured in a child restraint device of a type approved by the United States Department of Transportation.

2. Certain children may be exempt from the requirements for an approved restraint device in the following situations in accordance with the Code of Virginia § 46.2-1096.

D. Child protective services reporting.

1. Responsibility to report.

Any person employed as a social worker who suspects a child has been abused or neglected in foster care placement shall report the matter immediately to the local department or the child protective services hotline.

2. Investigating the CPS report.

The foster care worker shall cooperate with the CPS investigation and be kept informed and involved in any decision to remove the child. The local department holding custody or having placed the child, if different than the local department of the child's residence, shall be notified of the report of abuse/neglect.

E. The child of a foster child.

1. The child of a foster child remains the responsibility of his parent, unless custody has been removed.

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2. The child is not subject to requirements for service plans, reviews, or hearings.

However, the needs and safety of the child shall be considered and documented when developing the service plan for the (foster child) parent.

3. The child is eligible for Medicaid, services, and child support services.

F. Procedures and responsibility for children in custody of the DJJ.

1. Child committed to the DJJ.

From the time a child in the custody of a local department is committed to DJJ, the local department shall maintain contact with the child during commitment. Maintaining contact is necessary to begin aftercare planning to return the child to the community.

Contact with the child shall include:

a. Participation in DJJ's Reception and Diagnostic Center staffing;

b. Participation in the Juvenile Correctional Center (JCC) Treatment Team meeting and subsequent development of the comprehensive service plan; and

c. Visits, as often as needed, but at least once every three months with DJJ and the child in order to plan and carry out services to return the child to the community and/or provide services to the family so that the plan for the child can be achieved.

2. When a child is committed to DJJ, the service worker shall perform appropriate data entry into the Department's approved case documentation system.

3. Payments for the cost of maintenance for the child and purchased services are not made by the local department and become the responsibility of the agency with custody of the child.

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4. Child transferred to a JCC.

If a child is committed to a JCC, the local department worker is responsible for attending any meetings at the JCC to provide additional input regarding the child's needs and to discuss the comprehensive service plan and the aftercare plan for the child.

a. The local department worker shall develop a draft comprehensive services plan which will address the continuum of services needed for the child from the date of transfer to the JCC through the date of release from aftercare supervision.

b. The local department worker should request that all treatment team members and the child sign the comprehensive service plan.

c. If the local department worker has reservations about the comprehensive service plan which cannot be resolved on-site at the JCC, the worker should not sign the plan but shall obtain a copy for the child's file.

d. Proposed changes in the comprehensive service plan shall be approved by the local department and the JCC. Documentation indicating agreement with any changes shall be filed in the child's case record when received by the local department worker.

5. When planned aftercare placement is not available.

a. If, at any point during the child's commitment, it becomes apparent that the proposed aftercare placement will not be available, the local department worker will notify the JCC counselor by letter within five working days of learning that the placement is not available.

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b. The notification shall discuss placement alternatives previously explored. Information shall include actual placements or programs considered, whether the child was accepted/denied for placement/program, and the reason child was not accepted or resource not to be utilized. An action plan to locate placement shall also be presented.

6. Resolution of issues.

The local department worker is responsible for cooperating with attempts made to resolve disputes over the service plan and documenting the steps taken to resolve the disputes in the Department's approved case documentation system.

7. Post-release supervision.

Post-release supervision is the period that begins after a child who has been committed to the DJJ returns to a community for supervision. In the event that the child was in the custody of the local department immediately prior to his commitment to DJJ, and has not attained the age of 18 years, the local department shall resume custody upon the child's release, unless an alternative arrangement for the custody has been made and communicated in writing to DJJ.

8. Children returned to the community and placed in an out-of-home placement.

The local department worker is responsible for ensuring that all foster care requirements are met including those governing service plans, supervisory or panel reviews, court hearings and eligibility determinations.

22 VAC 40-201-140. Independent Living.

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Service planning and service provision shall be provided to assist older youth in acquiring skills necessary for self-sufficiency.

A. When to select independent living as the permanency goal.

This goal may be chosen for youth, ages 16 and over, who are preparing for independent living when all other permanency goals have been considered and are not feasible.

B. Service planning for older youth.

1. In developing service plans for older youth, the local department shall:

a. Identify services that will transition the youth from foster care to independence and document these services in the service plan document; and

b. Develop the service plan based on a formalized assessment.

2. Service plans shall be developed through a team process with the youth being a member of the team.

C. Service provision for youth.

1. The local department shall offer a program of education, vocational training, employment, financial support, daily living skills, and counseling for youth leaving foster care; and

2. Services shall continue up to the age of 21 for youth who have aged out of foster care if needed.

D. Independent living arrangements.

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1. Youth may live in independent living arrangements provided the youth demonstrates the maturity and skills necessary to live without parental supervision;

2. The local department shall approve all independent living arrangements and supervise youth in such arrangements; and

3. The local department and youth shall enter into a contract identifying responsibilities for all parties for maintaining the independent living arrangement.

E. Educational training vouchers.

1. The Education and Training Vouchers (ETV) Program is available to all agencies to help foster youth with expenses associated with college and post-secondary vocational training programs.

2. Eligibility criteria for ETV funding and expenditures are determined by the Department and shall comply with federal funding and expenditure criteria.

3. ETV funds are to be used for expenses as identified in Departmental requirements and shall comply with federal expenditure criteria.

4. ETV funding should be expended for education and training specific expenses prior to using the independent living basic allocation and only for those eligible youth engaged in post-secondary education or training.

22 VAC 40-201-150. Adoption Resource Exchange of Virginia.

The purpose of AREVA is to increase opportunities for children to be adopted by providing services to agencies having custody of these children.

A. Services provided by AREVA shall include:

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1. Maintaining a registry of children awaiting adoption and a registry of approved families waiting for adoption;
2. Preparing and distributing a photo-listing of special needs children awaiting adoption and a photo-listing of families awaiting special needs children;
3. Providing information and referral services for children who have special needs to link agencies with other adoption resources;
4. Providing on-going adoptive family recruitment for waiting children;
5. Providing consultation and technical assistance to agencies in finding adoptive families for waiting children; and
6. Monitoring local department compliance with legal requirements for adoption; and State Board policy on registering children and families.

B. Registration requirements.

1. Registration of children.

a. All children shall be registered with AREVA within 60 days of termination of parental rights if:

- (1) The goal is adoption;
- (2) The child is legally free for adoption;
- (3) The local department has the authority to place for adoption; and
- (4) Adoptive placement has not occurred.

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b. A copy of the court commitment or permanent entrustment agreements shall be submitted by the local department or child placing agency with the child's registration forms.

2. Registration of families.

a. Approved families shall be registered within 60 days after the date of approval if they are expressing interest in adopting children who are:

(1) Eight years of age and over;

(2) Members of sibling groups who are placed with the same family at the same time;

(3) Members of a minority or mixed racial heritage and at least 3 years of age or older;

or

(4) Physically, mentally, or emotionally disabled.

b. Approved families expressing interest in adopting healthy white children up to the age of eight may be registered with AREVA upon request of the family.

C. Photo-listing procedures.

1. Local departments or child placing agencies may request a 60-day deferment from the photo-listing for children and families when a family has been identified, including foster parents, and placement is pending;

2. The child or family shall be featured in the photo-listing the month following expiration of the deferment period, unless an adoptive home placement agreement has been signed.

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3. An additional 30-day deferment may be granted once at the discretion of AREVA staff.

4. AREVA staff shall make the determination about which children and families to feature in the photo-listing. The decision will be based on the needs of waiting children and on the types of families waiting for placement.

D. Local department and child placing agency responsibilities.

1. The local department or child placing agency shall be responsible for local recruitment of prospective adoptive families.

2. The local department or child placing agency registering the child or family shall inform AREVA immediately of:

a. Changes in the status of the child or family;

b. Placements for adoptive purposes; and

c. Withdrawals of the child or family from AREVA.

3. The local department or child placing agency shall provide families selected for a particular child with full factual information that the agency has on the child and the child's birth family, except that which would reveal the identity of the child's birth family.

The information provided shall include complete medical and psychological reports.

4. The local department or child placing agency shall explore with the family selected for a particular child the family's ability to fully or partially meet financial costs related to any special needs the child may have. If it is determined that the child has special needs

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and is eligible for subsidy, the agency shall inform the adoptive parent(s) of the child's eligibility for subsidy.

5. The local department or child placing agency shall obtain the consent of the Commissioner of Social Services prior to placing a child out of state.

E. Resource utilization.

When indicated, AREVA shall consult with the local agency or child placing agency regarding the need to explore additional resources.

1. AREVA staff may recommend referral of a child to a specialized adoption agency.

2. AREVA staff shall routinely register a child with the national adoption exchange after the child has been in the photo-listing for 60 days, unless a placement is pending.

3. AREVA shall be responsible for statewide recruitment of prospective adoptive families.

4. AREVA will automatically feature children on the state's electronic exchange system.

AREVA staff shall make the determination about which children and families to feature.

The decision will be based on the needs of the waiting children and on the types of families waiting for placement.

22 VAC 40-201-160. Adoption Subsidy.

An adoption assistance agreement shall be executed by the local department or child placing agency for children who have been determined eligible for subsidy. Local departments shall use an adoption assistance agreement form developed and made available by the Department.

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1. Basic eligibility.

The child shall be:

a. Under 18 years of age;

b. In the custody of a local department or licensed, private child placing agency at the time the petition for adoption is filed; and

c. Placed by the local department or licensed, private child placing agency with the prospective adoptive family for the purpose of adoption, except for those situations in which the child has resided for 18 months with foster parent(s) who file a petition for adoption under Virginia Code § 63.2-1229.

2. Determining that the child has special needs.

The local department or child-placing agency shall determine that:

a. The child cannot be returned home because parental rights are terminated.

b. The child has individual characteristics which make the child hard to place for adoption due to one or more of the following:

(1) Physical, mental, or emotional condition(s) existing before legal adoption;

(2) Hereditary tendency, congenital problem or birth injury that could lead to a future disability, verified by a medical/psychological statement;

(3) Prenatal exposure or suspected exposure to drugs and/or alcohol;

(4) Is eight years of age or older;

(5) Is a member of a minority or mixed racial heritage and at least 3 years of age;

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(6) Is a member of a sibling group who are placed with the same family at the same time; and

(7) Has significant emotional ties with foster parent(s) with whom the child has resided for at least 12 months and adoption is in the best interest of the child.

c. Reasonable efforts have been made to place the child with appropriate adoptive parent(s) without subsidy. A reasonable effort:

(1) Shall be made except when it would be against the best interest of the child because of factors such as the existence of significant emotional ties with foster parents;

(2) Shall be considered made if the child has been registered with AREVA and featured in the photo listing.

B. Determining the child's eligibility after legal adoption.

1. The child shall have a physical, mental or emotional condition that was present at the time of adoptive placement; or

2. The need for subsidy results from a hereditary tendency, congenital problem, or birth injury; or

3. The child was exposed perinatally to drugs and/or alcohol; and

4. There is a medical or psychological diagnosis that is not more than 12 months old.

C. Determining the type of agreement for which the child is eligible. There are three types of subsidy agreements. The types of subsidy for which a child can be eligible are:

1. A federal subsidy. This type of subsidy is used for children whose foster care expenses are paid from federal and state funds. A federal subsidy agreement shall be

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executed for any special needs child who meets eligibility requirements for AFDC or SSI.

2. A state subsidy. This type of subsidy is used for children whose foster care expenses are paid from state pool funds. State subsidy funds shall be reimbursed by the Department within the limitations of the appropriations to the Department for that purpose in accordance with §63.2-1302 (D).

3. A conditional subsidy:

a. Shall be provided for any child with special needs, whose foster care expenses are paid from state pool funds, when payments and services are not needed at the time of placement but may be needed later. It is granted upon the request of the adoptive parent(s) when a child:

(1) Has a physical, mental or emotional disability at the time of placement;

(2i) Has a hereditary tendency, congenital problem or birth injury;

(3i) Has been perinatally exposed to drugs and/or alcohol;

(4i) Could develop a clinically diagnosable mental health condition resulting from separation from birth parents, placement in foster care, or adoption;

(5) May need help later with daily living expenses.

b. Does not involve money payments or services. It is an agreement that allows the adoptive parent or parents to apply for a state subsidy after the final order of adoption;

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c. Commits the local department to providing a state subsidy when the adoptive parent or parents apply, if it is determined that the need is related to one of the conditions described in subdivision 3 a of this subsection;

d. Does not require annual certification.

D. Determining the types of payment to be made. Adoption assistance payments shall be negotiated with the adoptive family taking into consideration the needs of the child and the circumstances of the family. In considering the family's circumstances, income shall not be the sole factor. Family and community resources shall be explored to help defray the costs of adoption assistance.

E. Before recommending any type of payment, all known resources must be explored to determine whether the costs of the child's special needs can be fully or partially defrayed. Some of these resources are:

1. Governmental benefits to which a child may be entitled;

2. Supplemental Security Income (SSI) payments;

3. Medicaid coverage;

4. Services provided by Children's Specialty Services, Virginia Department of Health;

5. Hospital and major medical insurance plans;

6. Education services; and

7. Virginia Birth-related Neurological Injury Compensation Program.

F. There are three types of payment which shall be made on behalf of a child who is eligible for subsidy. Payments for adoption assistance shall not begin until the final

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order of adoption has been entered. The amount of payments made and services provided shall not exceed what would have been paid or provided had the child remained in foster care. The types of payment include:

1. Maintenance payments:

a. A maintenance payment shall be approved for all children who are eligible for subsidy, except those for whom a conditional subsidy will be provided, unless the adoptive parent or parents indicate that a payment is not needed or it is determined through negotiation that the payment is not needed.

b. The amount of the payment shall be negotiated with the adoptive parent(s) taking into consideration the needs of the child and circumstances of the adoptive parents.

c. Maintenance payments shall not be reduced lower than the amount specified in the initial subsidy agreement, unless requested by the adoptive parents.

d. Increases in the amount of payment shall be made when the child is receiving the maximum allowable basic maintenance payment and:

(1) A child reaches a higher age grouping, as specified in foster care policy for maintenance payments;

(2) Statewide increases are approved for foster care maintenance payments.

e. Payments shall be made directly to the adoptive parent or parents on a monthly basis.

f. Child care may be purchased with a maintenance payment, if needed by the adoptive parents.

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a. A special service payment is used to help in meeting the child's physical, mental, emotional, or non-routine dental needs. The special service payment shall be directly related to the child's individual characteristic that makes the child hard to place or a physical, mental or emotional condition that existed at the time of placement but was not identified before the final order of adoption. Special service payments may be time limited, based on the needs of the child.

b. Types of expenses that are appropriate to be paid include:

(1) Medical, surgical, or dental;

(2) Equipment such as prosthetics, braces, crutches, hearing aids, etc;

(3) Individual tutoring or remedial educational sessions, books or equipment;

(4) Psychological and psychiatric evaluations and treatment;

(5) Speech, physical, and occupational therapy;

(6) Premiums for a major medical insurance policy for a child, if the child is not covered by a family policy;

(7) Specialized or therapeutic services provided directly to the child by the adoptive parents. The rate of payment for these services shall be established by the Department and shall be based on difficulty of care rates. The parent(s) shall be qualified by experience or specific training to perform such services. This item may be paid in addition to a maintenance payment.

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c. A special service payment may be used for children eligible for Title XIX and the Social Services Block Grant (SSBG) to supplement expenses not covered by Medicaid or when SSBG funds are not available or do not provide adequate coverage.

d. Payments for special services are negotiated with the adoptive parent(s) taking into consideration:

(1) The special needs of the child;

(2) Alternative resources available to fully or partially defray the cost of meeting the child's special needs; and

(3) The circumstances of the adoptive family. In considering the family's circumstances, income shall not be the sole factor.

e. Special service payments may be made directly to the providers of service or through the adoptive parents. A bill or receipt shall be submitted before payment. The local department shall not be responsible for bills or receipts submitted later than six months after the end of the month in which the service was rendered.

f. The rate of payment shall not exceed the prevailing community rate.

3. One time only payments:

Adoptive parent(s) shall be reimbursed, upon request, for the nonrecurring expenses of adopting a child with special needs.

a. Nonrecurring expenses shall include:

(1) Attorney fees directly related to the finalization of the adoption.

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(2) Transportation and other expenses incurred by adoptive parent(s) related to placement of the child. Expenses may be paid for more than one visit;

(3) Court costs related to filing an adoption petition; and

(4) Reasonable and necessary fees of adoption child placing agencies.

b. The total amount of reimbursement for non-recurring expenses is based on actual costs and shall not exceed \$2,000 per child per placement.

c. An adoption assistance agreement shall be signed and shall specify the services to be provided under this section.

d. Payment of nonrecurring expenses may begin as soon as the adoption assistance agreement has been signed and the child is placed in the adoptive home. Payment may be made directly to providers of service or to the adoptive parent(s) for expenses they have incurred.

e. A bill or receipt shall be submitted before payment can be made. The local department shall not be responsible for bills or receipts submitted later than six months after the end of the month in which the expense was incurred.

G. Applying for subsidy.

1. Procedures for the child whose eligibility is established before legal adoption.

a. The adoption assistance agreement:

(1) Shall be executed within 90 days of receipt of the application for adoption assistance;

(2) Shall be signed before entry of the final order of adoption;

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(3) Shall specify the amount of payment and the services to be provided, including Title XIX and SSBG services;

(4) May be adjusted with the concurrence of the adoptive parents, in the event of changes in the needs of the child;

(5) Shall remain in effect regardless of the state of which the adoptive parent(s) are residents at any given time; and

(6) The interests of the child shall be protected through the Interstate Compact on Adoption and Medical Assistance, should the adoptive parent(s) and child move to another state while the agreement is effective.

2. Procedures for the child whose eligibility is established after legal adoption.

The application procedures are the same as for the child whose eligibility is established before adoption except:

a. The application shall be submitted within one year of a diagnosis;

b. The application shall be for a state subsidy.

H. Maintaining responsibility.

1. The adoptive parent or parents shall:

a. Submit annually to the local department or child placing agency an affidavit which certifies that:

(1) The child for whom they are receiving subsidy remains in their care;

(2) They are legally responsible for supporting the child; and, if applicable,

(3) The child's condition requiring subsidy continues to exist.

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b. Submit copies of all bills or receipts for special service payments made directly to the adoptive parents.

2. The local department or child placing agency shall:

a. Maintain responsibility for any payment or services identified in the agreement, regardless of where the family resides;

b. Inform prospective adoptive parent(s) of the child's eligibility for subsidy. This shall include a full disclosure of the services and payments for which the child is or may be eligible;

c. Notify adoptive parent or parents who are receiving subsidy that the annual affidavit is due. The notification shall be sent to the adoptive parent or parents two months before the affidavit is due;

d. Inform adoptive parent or parents, in writing, that they have the right to appeal decisions relating to the child's eligibility for subsidy and decisions relating to payments and services to be provided.

I. Terminating the subsidy agreement.

The Adoption Assistance Agreement:

1. Shall be terminated when the child reaches the age of 18 unless the child has:

a. A physical or mental disability which warrants continuation of the agreement; or

b. An educational delay. This shall include educational delays resulting from a child's foster care circumstances. The maintenance payment may be continued for a child who

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is turning 18 during his senior year of school, if the child is expected to graduate by the end of school year in which he turns 18.

c. If a child has one of the conditions in a and b above, the agreement shall be continued until the child reaches the age of 21;

2. Shall not be terminated before the child's 18th birthday without the consent of the adoptive parent(s) unless;

a. It is determined that the child is no longer receiving financial support from the adoptive parents; or

b. The adoptive parent or parents are no longer legally responsible for the child; or

c. The child's condition requiring subsidy no longer exists.

3. Shall not be terminated if the child's condition improves but could deteriorate again. In this case, the agreement shall be suspended without a payment, rather than terminated.

4. When a child receiving adoption subsidy enters foster care or physical custody becomes the responsibility of the state, the local department may renegotiate the adoption assistance agreement with the adoptive parent(s). Any renegotiated adoption assistance agreement shall receive concurrence from all parties to the agreement.

J. Appeals

1. Adoptive applicants and adoptive parent(s) shall have the right to appeal adoption subsidy/assistance decisions related to:

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a. The lack of or shortage of subsidy/ adoption assistance because the local department failed to present to adoptive parent(s) relevant facts known by the agency regarding the child prior to adoption finalization;

b. Failure of the local department to inform the parent(s) of the child's eligibility for subsidy/adoption assistance; and

c. Local department decisions related to the child's eligibility for subsidy/adoption assistance, subsidy payments and services, and changing or terminating a subsidy agreement.

2. Appeals shall be processed in accordance with procedures established by the Board.

22 VAC 201-170. Adoptive home study.

The manner in which a family receives a child for adoption shall have no bearing on how the family is assessed for purposes of adoptive placement. The criteria of capacity for parenthood are the same whether the child was placed by a local department, by a child placing agency, by the birth parents, or by a legal guardian. The difference between completing a home study for a child placed by a local department or child placing agency, and for a child placed by birth parent(s) is in the role of the agency, not in the assessment of the adoptive family. In an agency placement, the local department or child placing agency approves or denies adoptive applicants based on the local department's assessment of the prospective family. In a parental placement, the local department or agency is to make a recommendation to the court regarding the suitability

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of the family to adopt. The recommendation is to be based on an assessment of whether the placement is contrary to the best interest of the child. The assessment is based on information gathered during the home study process.

The following criteria provide agencies with the minimum requirements for the completion of an adoptive home study. These criteria are based on the current Minimum Standards for Licensed Child Placing Agencies and the department's Agency Approved Provider Standards.

A. Applicants for resource, foster or adoptive parents must complete an application to become an approved provider according to Department requirements to be considered for approval and for a home study process to occur.

B. The home study shall be documented in a narrative format and shall be signed and dated by the individual completing the home study and the supervisor or his designee.

C. Local departments must ask if a prospective resource, foster or adoptive parent previously applied to, or was approved by another local department or licensed child-placing agency for approval. The local department shall have the applicant(s) sign a request to release information from the other agency in order to request information about any previous applications and shall use that information in considering approval of the provider.

D. Interviews, references, and employment history.

1. Local departments shall conduct a minimum of three face-to-face interviews with each provider, at least one of which must be in the provider's home. If the prospective

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provider is a couple, at least one interview must be with the couple together. At least one interview must be with all individuals who are residing in the home.

2. The local department shall obtain at least three references from persons who have knowledge of the provider's ability, skill, or experience in the provision of services and who shall not be related to the provider. The local department may request more than three references.

3. In a parental placement, the worker shall meet at least once with the birth parent(s) and prospective adoptive parent(s) simultaneously.

4. The local department shall obtain information on the provider's employment history.

5. A thorough assessment of the adoptive family is critical in evaluating whether the placement is contrary to the best interest of the child. The adoption home study and assessment should include an in-depth history of the adoptive applicants and should consider the characteristics that are presumed, on the basis of present knowledge, to provide the best indication of capacity for adoptive parenthood. The home study shall include, but not be limited to, an assessment of the following criteria:

a. provider's knowledgeable about providing the necessary care for children;

b. the provider's physical and mental capability to provide the necessary care;

c. provider's ability to sustain positive and constructive relationships with children in care, and to relate to children with respect, courtesy and understanding;

d. provider's ability to handle emergencies with dependability and good judgment;

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e. provider's ability to communicate and follow instructions sufficiently to assure adequate care, safety and protection for children;

f. provider's demonstrated capacity to love and nurture a child born to someone else;

g. provider's ability to accept the child without expecting the child to resolve family problems or fulfill the provider's family ambitions; and

h. marital stability, if the providers are married.

6. Criminal and child protective services records.

a. Adoptive applicants shall identify any criminal convictions and be willing to consent to a criminal records search;

b. Adoptive applicants shall not have been convicted of a felony or misdemeanor which jeopardizes the safety or proper care of the child.

c. Adoptive applicants shall be willing to consent to a search of the Child Protective Services Central Registry.

7. Medical examinations. Adoptive applicants shall provide a physician's statement that reflects their current health and that states that they are in satisfactory physical health to enable them to provide adequate care for the child.

8. Approval period. A home study conducted for purposes of parental placements shall be approved for a period of 12 months from the date of completion of the study.

22 VAC 40-201-180. Agency Responsibilities for Consent in Non-Agency Adoptive Placements.

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In order for the juvenile court to make the legally required determinations before accepting consent, the local department or child placing agency shall:

A. Conduct a home study of the prospective adoptive home in a format determined by the Department; and

B. Provide the court with a report of the home study. Two copies of the home study report shall be sent with the original for the court, at its discretion, to provide to the birth and adoptive parents. The report shall include the following:

1. Information regarding whether the prospective adoptive parent(s) are financially able, morally suitable, and in satisfactory physical and mental health to enable them to care for the child;

2. The physical and mental condition of the child;

3. Information about both birth parents including:

a. Full names and addresses;

b. Why the parent(s) desire to be relieved of the responsibility for the child and what their attitude is toward the proposed adoption;

c. Physical description, age, race, marital status, education, employment, and, if known, physical and mental health.

4. The circumstance under which the child came to live, or will be living, in the home of the prospective adoptive family;

5. Fees that have been paid by the prospective adoptive family or in their behalf in the placement and adoption of the child;

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6. A statement as to whether the requirements of law related to execution of consent have been met;

7. A statement, if applicable, as to whether the requirements of law related to the ICPC have been met;

8. A statement that the birth parent(s) and the adoptive parent(s) have shared identifying information. The identifying information shall be written, signed and dated by the adoptive parent(s) and the birth parents, and a copy of the document shall be preserved as part of the agency's permanent adoption record. The local department or child placing agency shall make available at any time to both parties a copy of this document. The document shall include but not be limited to full names, addresses, physical, mental, social and psychological information;

9. Any other matters specified by the court.

C. The local department or child placing agency shall make a recommendation to the court regarding the suitability of the family to adopt. When the recommendation is that the placement appears to be contrary to the best interest of the child, the local department or child placing agency shall provide its justification for the recommendation; and

D. If the local department or child placing agency suspects there has been an exchange of property, money, services, or any other thing of value in violation of law in the placement or adoption of the child, they shall report such findings to the Commissioner for investigation. The following exceptions apply:

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1. Reasonable and customary services provided by a licensed or duly authorized child-placing agency, and fees, based on prevailing community rates, paid for such services;

2. Payment or reimbursement for medical expenses directly related to the birth mother's pregnancy and hospitalization for the birth of the child who is the subject of the adoption proceedings, and for expenses incurred for medical care for the child;

3. Payment or reimbursement to birth parent(s) for transportation necessary to execute consent to the adoption;

4. Usual and customary fees, based on prevailing community rates, for legal services in adoption proceedings; and

5. Payment or reimbursement of reasonable expenses incurred by adoptive parent(s) for transportation in intercountry placements and as necessary for compliance with state and federal law in such placements.

E. If the local department or child placing agency suspects that a person has engaged in any activities of a child-placing agency without legal authority or a license to do so, the local department or child placing agency shall report the findings to the Commissioner for investigation. These activities include:

1. Taking custody of a child for purposes of placing the child for adoption;

2. Studying and approving adoptive homes;

3. Selecting a particular adoptive home for a child;

4. Placing a child in an adoptive home; and

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5. Providing supervision of the placement to meet legal requirements related to visitation of the child and family.

22 VAC 40-201-190. Fees for Court Services.

A. Services for which a fee is charged.

The services for which the local department shall charge fees are court ordered custody investigations, adoption searches, non-agency placement adoptions, investigation and reports, and visitation and reports.

B. Fees for custody investigations are to be assessed in accordance with fee schedules established by the appropriate local board of social services.

C. Fees for adoption searches, non-agency placement adoptions, investigations and reports, and visitation and reports shall be determined as follows:

1. Current costs of services provided by agencies.

The Department shall determine the statewide average number of hours needed to provide each service. The statewide average hourly cost of service shall be calculated, considering both direct and indirect costs. The average time required for each service multiplied by the average hourly costs shall be used to determine the total cost of each service. The statewide average cost of service and average number of hours needed to provide each service shall be periodically re-determined.

2. Income and fee schedule.

A fee schedule, based upon family size and income, shall be developed annually using the median income level for Virginia. The fee schedule shall be as follows:

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a. Families with 50 % or less of median income shall not be charged a fee.
b. Families whose income falls between 50 % and 100 % of median income shall be charged an incremental percentage of the maximum fee.

c. Families whose income is above 100 % median income shall be charged the maximum fee.

3. Local departments shall include in reports to the courts the amount of the fee assessed to the petitioners, if any. If a local department finds an unusual circumstance that would affect a petitioner's ability to pay, it shall include this in its report to the court.

D. Collection of fees.

1. In non-agency placement adoptions and adoption searches, the fee shall be collected by the circuit court prior to the entry of any final order and shall be disbursed to the local department which performed the service.

2. The local department shall report any fees collected as expenditures refunded on its financial report. The local department's reimbursement from state and federal funds shall be adjusted to reflect the state and federal share of income collected.

2 VAC 40-201-200. Suspected Violations in the placement and adoption of a child.

When the Commissioner receives a report of suspected violations of the Code of Virginia § 63.2-1218, the Commissioner shall, in accordance with the Code of Virginia § 63.2-1219:

A. Investigate the suspected violation; and

B. Take appropriate action as follows:

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1. When the investigation reveals that there may have been a violation of law; the Commissioner shall report his findings to the appropriate attorney for the Commonwealth;

2. When the investigation reveals that the violation occurred in the course of the practice of a profession or occupation licensed or regulated pursuant to Title 54.1 of the Code of Virginia; the Commissioner shall also report his findings to the appropriate regulatory authority for investigation and appropriate disciplinary action; or

3. Pursuant to the Code of Virginia § 63.2-1711, the Commissioner may file suit with the court of record having chancery jurisdiction, when the investigation reveals that the violation involves engaging in the activities of a child-placing agency without a license.
22 VAC 40-201-210. Training.

A. Local departments shall provide training for all foster care and adoption workers as determined by the Department.

B. Local department foster care and adoption workers and supervisory staff will complete an individual training needs assessment using a method prescribed by the Department.

C. New local department foster care and adoption workers and supervisory staff will attend and complete new worker required training using a curriculum developed by the Department.

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D. Local department foster care and adoption workers and supervisory staff will attend and complete required annual in-service training using a curriculum developed by the Department.