

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES  
NOTICE OF PUBLIC HEARING

August 22, 2019  
10:00 a.m. Central Time  
Gold's Building – Room 534  
1033 O Street, Lincoln, Nebraska

The purpose of this hearing is to receive comments on proposed changes to Title 395 Chapter 3 of the Nebraska Administrative Code (NAC)-*Foster Care Licensure*. These regulations govern the licensure of foster care parents. The proposed changes are based on updates to the Federal Model Home Licensing Standards and are not a change to current policy. The proposed regulations include: new safety provisions governing the foster family residence; new applicant requirements related to communication skills, health, income and resources, housing, and transportation; and updates to foster parent training curriculum.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Interested persons may attend the hearing and provide verbal or written comments or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or [dhhs.regulations@nebraska.gov](mailto:dhhs.regulations@nebraska.gov), respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals with hearing impairments may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

## FISCAL IMPACT STATEMENT

Agency: <b>Department of Health and Human Services</b>	
Title: 395	Prepared by: Ivy Bloom
Chapter: Three (3)	Date prepared: June 3, 2019
Subject: Foster Care Program	Telephone: 402-471-9160

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )	( <input checked="" type="checkbox"/> )
Increased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Costs	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Increased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Decreased Revenue	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )
Indeterminable	( <input type="checkbox"/> )	( <input type="checkbox"/> )	( <input type="checkbox"/> )

Provide an Estimated Cost & Description of Impact:

State Agency: Not Applicable

Political Subdivision: Not Applicable

Regulated Public: Not Applicable

If indeterminable, explain why:

Not Applicable

TITLE 395 CHILDREN AND FAMILY SERVICES: PROTECTION AND SAFETY

CHAPTER 3 FOSTER CARE LICENSURE AND APPROVAL, PLACEMENT, AND HOME STUDIES

001. SCOPE AND AUTHORITY. These regulations govern the approval of foster family homes and the issuance of foster care licenses as authorized and required by Nebraska Revised Statute (Neb. Rev. Stat.) §§ 71-1902 and 71-1904. These regulations also govern adoptive home studies as authorized and required by Neb. Rev. Stat. § 43-107.

002. DEFINITIONS. The following definitions apply:

002.01 FUNCTIONAL LITERACY. Functional Literacy means the ability to read and write at the level necessary to participate effectively in society.

002.02 KINSHIP HOME. Kinship Home means Kinship Home as defined in Neb. Rev. Stat. § 71-1901.

002.03 LICENSING AGENT. Licensing Agent means the Department or any contractor of the Department who is gathering the information necessary for the Department to make a foster care license determination.

002.04 MEDICAL PROFESSIONAL. Medical Professional means a physician or advanced practice registered nurse (APRN) or physician assistant (PA) when the APRN or PA is practicing under the supervision of a physician. A Medical Professional must be licensed by the Nebraska Department of Health and Human Services, Division of Public Health, or its equivalent in another state, at the time of service.

002.05 REASONABLE AND PRUDENT PARENT STANDARD. Reasonable and Prudent Parent Standard means Reasonable and Prudent Standard as defined in Neb. Rev. Stat. § 43-4703.

002.06 RELATIVE FOSTER CARE LICENSE. Relative Foster Care License means a type of foster care license that authorizes the licensee to provide foster care for a child who is relative of the licensee.

002.07 RELATIVE HOME. Relative Home means Relative Home as defined in Neb. Rev. Stat. § 71-1901.

002.08 RELIABLE TRANSPORTATION. Reliable transportation means a properly maintained vehicle or access to reliable public transportation.

003. FOSTER CARE LICENSES

003.01 DURATION AND SPECIFICATIONS. A foster care license issued to an applicant is effective for two years and will identify the ages of children to be fostered, the number of children for whom the home is licensed and the location of the licensed home.

003.02 LIMIT OF ONE LICENSE. Only one foster care license can be issued for an address.

003.03 AGE OF MAJORITY. To be licensed for Foster Care, an applicant must be the age of majority.

003.04 FUNCTIONAL LITERACY. At least one applicant must have Functional Literacy.

003.05 MARRIED APPLICANT. If legally married, each spouse will be identified on the foster care licensed and each spouse must meet all requirements of this chapter.

003.06 MAXIMUM NUMBER OF PERSONS FOR WHOM CARE CAN BE PROVIDED. A foster parent may provide care for adults and children, including foster children and children related by blood, marriage or adoption, according to the following maximum placement limits. The Department will not consider Foster Care youth residing in a foster home as household members for purposes of Foster Care licensing.

003.06(A) HOMES WITH TWO LICENSED FOSTER PARENTS. No more than six children may reside in a home with two licensed foster parents. No more than four children under age six may reside with two licensed foster parents.

003.06(B) HOMES WITH ONE LICENSED FOSTER PARENT. No more than four children may reside in a home with one licensed foster parent. No more than two children under age six may reside with one licensed foster parent.

003.06(C) EXCEPTION. The Department, in its discretion, may allow a home to exceed the established maximum placement limits when doing so is in the best interest of each child in the home. This exception may only be used to allow:

- (1) A parenting youth in foster care to remain in placement with a son or daughter of the parenting youth;
- (2) Siblings to remain together;
- (3) A child with an established meaningful relationship with the family to remain with the family; or
- (4) A family with special training or skills to provide care to a child who has a severe disability.

003.06(D) CALCULATING MAXIMUM PLACEMENT LIMIT. The applicable maximum placement limits apply to all children and adults in the home for whom the foster parents provide 24 hour care and supervision.

003.07 REQUIRED NOTICE. Foster families will notify the Department within three business days when there is a change to the individuals residing in the home.

003.08 APPLICATION. To be eligible for a foster care license, an individual must submit a completed application as set forth in this chapter.

003.08(A) INITIAL LICENSING APPLICATION PACKET. The initial licensing application packet must include the completed:

- (1) Department approved application form;
- (2) References as required by this chapter;
- (3) Department approved health information form;
- (4) Home Study as required by this chapter;
- (5) Background checks as required by this chapter;
- (6) Department approved compliance checklist; and
- (7) Verification of pre-service training as required by this chapter.

003.08(A)(i) COMPLETE APPLICATION. If an applicant fails to provide the completed licensing application, or fails to cooperate in the licensing process, the application for a license will be denied. If the Department determines an application is incomplete or inaccurate information is provided, the Department may request additional information from the applicant instead of issuing an immediate denial of the license. Applications that remain incomplete for three months or longer will be denied.

003.08(A)(ii) HEALTH INFORMATION. Each household member of the age of majority who will provide care for a foster child, including each applicant, must provide health information to document that she or he is physically and mentally capable of caring for children. For purposes of the initial license, the health information must include the signature of a Medical Professional. For purposes of license renewal, a self-certifying report without the signature of a Medical Professional is acceptable.

003.08(A)(ii)(1) PRESCRIBED MEDICATIONS. If the Foster Care applicant is taking prescribed medications, the applicant must list the prescribed medications on the health information report.

003.08(A)(ii)(2) REQUEST FOR ADDITIONAL HEALTH INFORMATION. If the health information report indicates that an applicant has a potential health related issues that could impact the applicant's ability to safely care for children, the Department may require the applicant to provide additional documentation.

003.08(A)(ii)(3) COST OF HEALTH INFORMATION REPORT OR EXAM. If a physical exam or medical appointment is necessary in order for the applicant to obtain a health information report or additional information, the Department will not pay for the costs of the examination or medical appointment unless the applicant is applying for a Relative Foster Care License. Whether the Department will pay for a relative's examination or report will be determined at the sole discretion of the Department on a case by case basis.

003.08(A)(ii)(4) DENIAL OF LICENSE. If the applicant does not supply the requested health information report or additional documentation, the license application will be denied. If the applicant provides inaccurate or false information, the license application will be denied.

003.08(A)(iii) REFERENCES. For purposes of the initial license application, each applicant must provide the names and contact information of at least three individuals who can attest to the capability of the applicant to care for a child. At least one reference must be from a relative of the applicant and at least two references must be from a non-relative.

003.08(A)(iv) BACKGROUND CHECKS. The applicant and all other members of the household 18 years of age and older will submit background checks prior to licensing. Each individual living in the home on whom a background check will be performed will sign the authorization form granting the Licensing Agent permission to perform the background checks and obtain the results. The authorization must include all previous known names, including maiden names and aliases. The release of information must be signed by the parent or guardian for any child under the age of 19. Any foster children residing in the household are not subject to these background check requirements. The following background checks will be conducted:

- (1) State Central Register or Registry of child protection for any state in which the applicant has lived within the past 5 years;
- (2) Nebraska Adult Protective Services Central Registry;
- (3) Appropriate local law enforcement agency;
- (4) Sex Offender Registry for any state in which the applicant has lived within the past 5 years;
- (5) State-level criminal history; and
- (6) Fingerprint-based National Criminal History Check.

003.08(A)(v) ACTION BASED ON BACKGROUND CHECK RESULTS. If the prospective foster parent has a criminal history is on a state's central registry for child protection, the Department will determine licensing eligibility, based on the following criteria:

003.08(A)(v)(1) INELIGIBLE. A prospective foster parent is ineligible to receive a Foster Care license if background checks results indicate either of the following:

- (a) The prospective foster parent has been convicted of a felony involving abuse or neglect of a child, spousal abuse, a crime against a child or children, including child pornography, or a crime of violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or
- (b) The prospective foster parent is identified as a perpetrator on a Central Registry or equivalent in any state.

003.08(A)(v)(2) INELIGIBLE FOR FIVE YEARS. A prospective foster parent convicted of a felony involving physical assault, battery, or a drug-related offense is ineligible to provide Foster Care for five years after the date of conviction.

003.08(A)(v)(3) ELIGIBLE AT DEPARTMENT'S DISCRETION. If a prospective foster parent has been convicted of a crime or crimes that do not otherwise result in ineligibility, the Department will review the facts and circumstances of the convictions to determine whether the person is eligible to provide Foster Care.

003.08(A)(v)(4) CHANGE IN HOUSEHOLD MEMBERS. When the Department is notified that there is a change individuals residing in the home, the Department may require any individual age 18 or older to submit to the background checks set forth in this section. If any individual age 18 or older is ineligible to receive a foster care license pursuant to this section, the Department may initiate a licensing action.

003.08(A)(vi) COMPLIANCE CHECKLIST. Prior to licensure, renewal, or a license amendment, the Licensing Agent completes a Department approved compliance checklist. In order to complete the checklist for licensure or re-licensure, the Licensing Agent must make an on-site visit to the home. The home to be licensed must meet all criteria set forth in the compliance checklist or a license will be denied or may be revoked.

003.08(A)(vi)(1) ENVIRONMENTAL REQUIREMENTS. In order for a foster license to be issued, the home must meet all the environmental requirements of this section.

003.08(A)(vi)(1)(a) BEDROOMS. Bedrooms or sleeping areas meet the following criteria:

- (i) Each child is provided with a bed, bedding, and a place to store his or her belongings;
- (ii) No person over the age of majority may co-sleep or bed share with any person under the age of majority; and
- (iii) When required by the placing agency or the Department, the applicant will provide separate bedrooms for children of opposite sexes.

003.08(A)(vi)(1)(b) FREE FROM INFESTATION. The home must be free from rodents and insect infestation.

003.08(A)(vi)(1)(c) WATER SUPPLY. The Licensing Agent will verify that the foster home has a continuous supply of safe drinking water and that the water supply meets one of the following criteria:

- (i) The Water supply is from a private well, and has been tested for bacteria and nitrates and approved at initial application and annually thereafter by a lab certified by the Department; or
- (ii) The water comes from a municipal source.

003.08(A)(vi)(1)(d) FIRE SAFETY FOR LICENSED FOSTER HOMES. The Licensing Agent will verify that the home has:

- (i) At least two exits on grade level;
- (ii) At least two means of escape from every level of the home that is used for sleeping;
- (iii) Operable smoke detectors, maintained according to manufacturer's recommendations, which are located on each level of the home. For bedrooms located below grade level and used by foster children, the detectors must be single station approved detectors; and

(iv) At least one operable carbon monoxide detector on each level of occupancy of the home.

003.08(A)(vi)(1)(e) PETS. The Licensing Agent will verify the following for any pet in the home:

- (i) That the pet is licensed in accordance with the applicable state, local or tribal law;
- (ii) That the pet is current on any necessary or required vaccinations; and
- (iii) That the pet has no history of aggression.

003.08(A)(vi)(1)(f) OUTDOOR RECREATIONAL AREA. The Licensing Agent will verify that the grounds are clean, well-drained, and hazard-free.

003.08(A)(vi)(1)(f)(i) OUTDOOR SWIMMING POOLS. All outdoor swimming pools, hot tubs or spas filled with more than one foot of water must meet the following requirements:

- (1) The portion of the yard where the swimming pool, hot tub or spa is located must have a fence on all sides equipped with a safety device, such as a bolt lock;
- (2) If the swimming pool cannot be emptied after each use, the pool must be equipped with a working pump and filtering system; and
- (3) Hot tubs and spas must have safety covers that are locked when not in use.

003.08(A)(vi)(1)(g) WASTE DISPOSAL. The Licensing Agent will verify that:

- (i) Garbage that is stored outside the home is stored in containers and disposed of regularly; and
- (ii) An appropriate sewer or septic system is used.

003.08(A)(vi)(1)(h) ALTERNATIVE COMPLIANCE. The Department may approve a request of an applicant to comply with the licensing standard in a different way from what is stated. The applicant must submit the request to the Department in writing prior to a licensing determination being made. The applicant will resubmit the alternative compliance request to the Department each time a license is to be issued, amended, renewed, or reinstated.

003.08(A)(vi)(1)(h)(i) ALTERNATIVE COMPLIANCE WITH FIRE SAFETY AND WASTE DISPOSAL. The Licensing Agent will submit all alternative compliance requests regarding fire safety or waste disposal requirements to the state or local fire authority or to the state or local health department for a decision on suitability of the suggested alternative.

003.08(A)(vi)(2) TRAINING. The applicant completes training as follows:

- (i) For an initial license, the applicant must complete the Department-approved pre-service training, with such training being completed prior to licensure and within the 12 months immediately prior to licensure;



- (ii) For a license renewal, the licensee must complete the Department approved in-service trainings annually within the effective dates of his or her license to be renewed. The number of in-service training hours the licensee must complete will be in compliance with the Department's Foster Care Training Tool;
- (iii) All foster parents receive training relating to the Reasonable and Prudent Parent Standard that meets the requirements of Nebraska Revised Statute 43-4707; and
- (iv) All foster parents receive training on recognizing human trafficking, including recognizing sex trafficking and labor trafficking as required by Neb. Rev. Stat. § 43-4707.

003.08(A)(vi)(2)(a) ACTIVITIES COUNTED AS TRAINING. If a foster parent wishes to have a course or activity not included on the Department's Foster Care Training Tool counted toward the in-service training requirements, the activity or course must be submitted to the Department for review and may only be counted towards the training hours if the Department gives written approval. The Department retains the discretion to determine which activities and courses will be approved for training credit.

003.08(A)(vi)(2)(b) DOCUMENTATION. The applicant will provide written documentation of the training received.

003.08(A)(vii) HOME STUDY. The Home Study must be completed in the Department approved format. The individual preparing the home study must complete at least one scheduled on-site visit to assess the home. The Home Study will include information on the physical and mental health history, including any history of drug or alcohol abuse or treatment, for any household member of the age of majority who will be providing care for the child. The Licensing Agent will submit a completed Home Study regarding the applicant to the Department as a part of the licensing application packet.

003.09 AMENDING A LICENSE. A Foster Care license may be amended upon the written request of the foster parent if the requirements of this section are met.

003.09(A) CHANGE OF ADDRESS. When the foster parent requests to the change the address on the Foster Care license, a new department approved application form must be submitted to the Department and a compliance checklist must be completed for the new residence along with an updated home study. A license will not be amended if all licensing requirements are not met.

003.09(B) MAXIMUM NUMBER OF CHILDREN. When the foster parent requests to change the number of children for whom care can be provided, the license may be amended if the Department determines that the requested change is in compliance with the requirements of this chapter.

003.09(C) TIME PERIOD. Amending a license does not change the end date of the original license.

003.10 EXTENDING A LICENSE. A current foster care license can be extended for 90 days when the licensee has submitted a completed renewal application packet to the Department prior to the expiration of current license. A provisional license cannot be extended.

003.11 RENEWAL OF LICENSE. In order for renewal of a license to occur, all licensing requirements and processes applicable to the original license are to be completed, unless specified otherwise in this chapter.

003.11(A) APPLICATION FOR A RENEWAL LICENSE. The application for license renewal includes the following completed items:

- (i) Department approved application form;
- (ii) Department approved compliance checklist;
- (iii) Background checks;
- (iv) Health information form;
- (v) Ongoing training verification; and
- (vi) Signed Home Study Addendum.

003.12 PROVISIONAL LICENSE. The Department may issue a time-limited, nonrenewable provisional license to an applicant who is unable to comply with all licensure requirements and standards, but has a documented plan to comply with the requirements, and is capable of compliance within the time period stated in the provisional license as approved. The Provisional License will not extend beyond 180 days or past the date of the current license.

003.13 WAIVER OF LICENSING REQUIREMENTS FOR A RELATIVE LICENSE. The Department, in its discretion, may waive one or more of the following licensing requirements for an applicant who is related by blood, marriage, or adoption to the child requiring placement:

- (1) The requirement that at least two references must be from a non-relative;
- (2) The maximum number of persons for whom care can be provided;
- (3) The requirement that a home have at least two exits on grade level; or
- (4) Training.

003.13(A) TYPE OF LICENSE. In the event the Department issues a Foster Care License after waiving one of the above licensing requirements, the type of Foster Care License issued will be a Relative License.

003.14 ADDITIONAL ELIGIBILITY CRITERIA. To be eligible for a foster care license, all applicants must meet the following criteria:

- (1) The applicant must not have relinquished parental rights on any child within the past five years;
- (2) The applicant must agree to abide by all requirements included in the Department's Placement Document; and
- (3) The applicant must:
  - (a) Be mentally and physically able to provide care and supervision to children;
  - (b) Exercise reasonable judgment when caring for children; and
  - (c) Not engage in or have a history of behaviors which would injure or endanger the physical, mental health, or safety of children.

003.14(A) DENIAL. An applicant who does not meet the eligibility criteria will be denied a foster care license.

003.15 LICENSING ACTION. The Department will provide written notice of all licensing actions to the applicant or licensee, including the reason for the action and, when applicable, the right to appeal the action. The Department cannot take a licensing action for conduct solely involving a foster parent's exercise of the Reasonable and Prudent Parent Standard

003.15(A) TYPES OF LICENSING ACTIONS. A licensing action includes any of the following:

- (i) Denial;
- (ii) Revocation; or
- (iii) Suspension.

003.15(B) DENIAL. The Department may deny a foster care license application for anyone who:

- (i) Does not meet all the eligibility criteria set forth in this chapter;
- (ii) The Department determines falsified information on the foster care application or home study; or
- (iii) The Department determines to be ineligible for a license based on the results of the background checks.

003.15(C) REVOCATION. The Department may revoke a foster care license when:

- (i) The Department determines that a licensed foster parent or an individual 18 years of age or older residing in the home is placed on the Child Abuse and Neglect Central Registry or is determined to otherwise meet one of the background check ineligibility criteria;
- (ii) It is determined by the Department that a licensed foster parent fails to meet any of the licensing requirements set forth in this chapter;
- (iii) It is determined by the Department that any individual residing in the home of a licensed Foster Care provider has engaged in behaviors that have or would compromise the safety or well-being of a child; or
- (iv) The Department determines the licensee falsified information on the foster care application or home study.

003.15(D) SUSPENSION OF A LICENSE. The Department may suspend a foster care license when any one or more of the following occurs:

- (1) When a complaint of suspected child or adult abuse or neglect has been received but the Department has not yet made a finding;
- (2) When the licensee has been placed on the Adult Protective Services Central Registry or the Child Abuse and Neglect Central Registry as a perpetrator and the licensee has appealed that decision;
- (3) When an licensee or member of the household has a criminal charge filed against him or her involving a crime against children or other crimes which may affect the care of children; or
- (4) When a child in the care of the licensed foster home dies.

003.15(D)(i) END OF SUSPENSION. When a court action is taken or an appeal decision is made regarding the issue which resulted in the suspension, the license will be reinstated or revoked. If a foster care license is in suspended status on its end date, the license will expire.

003.16 APPEAL OF LICENSING ACTIONS. The applicant or licensee has the right to appeal the revocation, suspension or denial of a license within thirty days from the date of the notice of action. If the applicant submits a written appeal within ten days of receipt of notice, the licensing action will not be taken until the appeal decision is issued by the Director of the Division of Children and Family Services. Such appeals will be carried out in accordance with the Nebraska Administrative Procedure Act.

003.17 PLACEMENT. No licensee is guaranteed to receive placement of a foster child in his or her home. If a child is placed in the foster home, the licensee must sign the Department's placement agreement at the time of placement and comply with all provisions of the agreement. Failure to abide by any term of the placement agreement could result in action being taken on the foster care license.

#### 004. APPROVAL OF PLACEMENT IN UNLICENSED HOMES.

004.01 KINSHIP AND RELATIVE HOMES. A child who is in the custody of the Department will not be placed in an unlicensed home, without Department approval. The only foster homes that may be approved are Kinship Homes and Relative Homes. All relative and kinship foster parents must sign the Department's placement agreement and abide by all terms of the agreement.

004.02 NON-EMERGENCY APPROVAL OF RELATIVE AND KINSHIP HOMES. In order for a child to be placed in a Kinship or Relative Home the requirements of this section must be met.

004.02(A) REQUIREMENTS. Prior to a child being placed in a Relative or Kinship Home the Department will complete background checks on all household members 18 years of age and older. The background checks to be completed are:

- (i) Child Abuse and Neglect Central Registry for all states in which the individual has lived within the past 5 years;
- (ii) Adult Abuse and Neglect Central Registry check;
- (iii) Sex Offender Registry check for all states in which the individual has lived within the past 5 years; and
- (iv) Local law enforcement agency check; and
- (v) National fingerprint-based criminal history check.

004.02(B) ACTION BASED ON REQUIRED BACKGROUND CHECKS. If the prospective foster parent has a criminal history is on a state's central registry for child protection, the Department will determine licensing eligibility, based on the following criteria:

004.02(B)(i) INELIGIBLE. The Relative or Kinship Home will not be approved if the background checks on any household member indicate either of the following:

- (a) The household member has been convicted of a felony involving abuse or neglect of a child, spousal abuse, a crime against a child or children, including child pornography, or a crime of violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; or
- (b) The household member is identified as a perpetrator on a Central Registry or equivalent in any state.

004.02(B)(ii) INELIGIBLE FOR FIVE YEARS. A Relative or Kinship Home will not be approved if any household member age 18 or older has been convicted of a felony involving physical assault, battery, or a drug-related and the date of conviction is within the past five years.

004.02(B)(iii) ELIGIBLE AT DEPARTMENT'S DISCRETION. If any household member age 18 or older has been convicted of a crime or crimes that do not otherwise result in ineligibility, the Department will review the facts and circumstances of the convictions to determine whether the Relative or Kinship Home will be approved.

004.02(B)(iv) CHANGE IN HOUSEHOLD MEMBERS. When the Department is notified that there is a change in individuals residing in the home, the Department may require any individual age 18 or older to submit to the background checks set forth in this section. If any individual age 18 or older is ineligible to receive a foster care license pursuant to this section, the Department may determine that Relative or Kinship Home is no longer approved.

004.02(C) HOME STUDY. The Department must receive a completed Home Study on the Relative or Kinship Home within 45 days of placing the child in the home.

004.03 EMERGENCY APPROVAL OF RELATIVE AND KINSHIP HOMES. Emergency approval of a Relative or Kinship Home is allowed when non-emergency approval prior to placement is unfeasible, subject to the requirements of this section.

004.03(A) EMERGENCY APPROVAL REQUIREMENTS. The following must be met prior to a Relative or Kinship Home being approved for emergency placement:

- (1) The Department will visit the home of the potential Caregiver, including a face-to-face meeting with at least one of the prospective adult Caregivers;
- (2) All Caregivers are the age of majority;
- (3) The Department determines that there is adequate housing and will not compromise the child's safety;
- (4) The Department determines that the adult Caregiver is able to adequately meet the needs of the child;
- (5) At least one of the relative or kinship caregivers in the home must be able to communicate with the child in the child's own language;
- (6) At least one of the relative or kinship caregivers in the home must be able to communicate with the Department, the Licensing Agent, health care providers and other service providers; and
- (7) The following background checks are completed on all household members age 18 or older:

- (a) Child Abuse and Neglect Central Registry check for all states in which the individual has lived within the past 5 years;
- (b) Adult Abuse and Neglect Central Registry check;
- (c) Sex Offender Registry check for all states in which the individual has lived within the past 5 years; and
- (d) Local law enforcement agency check.

004.03(A)(i) EXCEPTION TO HOME VISIT. The Department may make an exception to visiting the home and having a face-to-face meeting with one of the prospective caregivers if law enforcement made arrangements for the child to temporarily reside with the Relative or Kinship Home. In that case, the visit by the worker will be made no later than one working day after the placement.

004.03(B) COMPLETION OF NON-EMERGENCY REQUIREMENTS. After a child is placed in the emergency approved Relative of Kinship Home, the remaining non-emergency approval requirements, including the national fingerprint check and home study, must be completed within 60 calendar days.

004.04 WHEN PLACEMENT APPROVAL DENIED OR REVOKED. If, at any point in time, the Department becomes aware that a the Relative of Kinship Home does not meet approval requirements or is otherwise contrary to the child's best interest the Department may deny or revoke approval of the Kinship or Relative Home.

005. REQUIREMENTS FOR ALL PLACEMENTS. The requirements of this section apply to all homes in which children in the custody of the Department are placed. Failure to meet any of these requirements could result in a foster care license being denied or revoked or approval of a relative or Kinship Home being denied or revoked.

005.01 PARTICIPATION IN ACTIVITIES. Every foster parent, whether in a licensed home or approved home, will:

- (A) Permit each child placed in his or her care to participate in age appropriate school, extracurricular, enrichment, cultural, and social activities;
- (B) Permit each child placed in his or her care to practice and further the child's own religious beliefs and cultural practices; and
- (C) Exercise the Reasonable and Prudent Parent Standard when determining whether to allow a child in Foster Care in the custody of the Department to participate in extracurricular, enrichment, cultural, and social activities.

005.02 DISCIPLINE. Every foster parent, whether in a licensed home or approved home, will provide age appropriate discipline for children placed in his or her home and will not use corporal or degrading punishment for children placed in his or her home. The following forms of discipline may not be used by any Caregiver for children in the custody of the Department:

- (1) Denial of necessities;
- (2) Chemical or mechanical restraints;
- (3) Derogatory remarks, abusive or profane language;
- (4) Yelling, screaming or threats of physical punishment;
- (5) Physical punishment of any kind to include spanking, slapping, shaking, biting, striking, kicking;

- (6) Rough handling; or
- (7) Denial of visits or contact with parents, siblings, or others, as designated by the Department.

005.02(A) DELEGATION OF DISCIPLINE. The foster parent will not delegate discipline of a child in the custody of the Department to anyone who is not the licensed foster parent for that child or the approved relative or kinship placement for that child.

005.03 CONFIDENTIALITY. All information concerning a child and his or her family is considered confidential and will only be disclosed with authorization from the Department and for purposes that benefit the child. Foster parents, whether in a licensed home or approved home, will not post pictures and information regarding the child on social media sites.

005.04 COOPERATION. Every foster parent will cooperate with the Licensing Agent and the Department.

005.05 MEDICAL CARE AND RECORDS. The foster parent, whether in a licensed home or approved home, is responsible for ensuring each child placed in his or her care has routine medical, vision and dental care necessary for the child's well-being. The foster parent will maintain and keep the child's medical history to include the following accurate written information on each child in their care:

- (1) Full name of child;
- (2) Name, address, and phone number of the child's physician;
- (3) Name, address, and phone number of the person or agency holding legal custody of the child;
- (4) Past (if available) and current immunizations;
- (5) The administering of all medications;
- (6) Significant health concerns; and
- (7) Emergency medical treatment and intervention received.

005.05(A) NOTICE TO DEPARTMENT. The foster parent is responsible for informing the worker of all illnesses, accidents, injuries, and other incidents requiring medical attention within 24 hours.

005.06 ON-SITE VISITS. Every foster parent, whether in a licensed home or approved home, must allow on-site home visits by the Licensing Agent and the Department.

005.07 NUTRITION AND FOOD SERVICE. The foster parent will ensure that each child is provided with a minimum of three meals per day which meet his or her daily nutritional needs.

005.08 HAZARDOUS MATERIALS, WEAPONS AND EQUIPMENT. The foster parent will ensure that:

- (1) Drugs, cleaning agents, poisons, and other potentially hazardous items, materials, or equipment are inaccessible to youth or are used by youth under supervision of a Caregiver;
- (2) All weapons and firearms are inaccessible to children and are unloaded and locked by a child-proof safety lock or stored in a locked cabinet or area; and

(3) All ammunition are inaccessible to children and stored in a locked cabinet or area and separate from the firearms.

005.08(A) The foster parent, whether in a licensed home or approved home, may have a concealed handgun permit, however, will not carry the firearm on their person in the presence of foster children placed in his or her home.

005.08(A)(i) EXCEPTION. The foster parent may carry a firearm in the presence of a foster child for recreational purposes while exercising the Reasonable and Prudent Parent Standard.

005.09 EMERGENCY PREPAREDNESS PLAN. The foster parent, whether in a licensed home or approved home, will develop appropriate emergency preparedness plans based on the home's geographic region. Each home must have a plan for evacuation from fire. All emergency preparedness plans must be posted in a prominent place in the home and reviewed with the children.

005.10 TRANSPORTATION. Each foster parent must have access to Reliable Transportation that is both legal and safe for the child.

#### 006. REPORTS REGARDING FOSTER HOMES.

006.01 LICENSING VIOLATIONS. The Department will investigate any licensed foster home after receiving a report that the foster home or foster parents are not in compliance with the licensing regulations.

006.02 ALLEGATIONS OF ABUSE OR NEGELCT. Any report about a foster home may be forwarded to the Child Abuse and Neglect Hotline for the Department to determine whether the report involves allegations of child abuse or neglect.

006.03 REPORTING PARTY. The identity of the reporting party is not public information.

006.04 LICENSING ACTION. If the Department determines the report is credible, a licensing action may be initiated.

007. SHARING HOME STUDY INFORMATION. The sharing of the home study, including background check, information is subject the provisions of this section.

007.01 SHARING INFORMATION WITH THE APPLICANT. The Department will not share the results of the finger-print based national criminal history checks with any person or entity, except as allowed by law. An individual on whom a home study was completed will not be provided with a copy of the home study.

007.02 SHARING INFORMATION WITH COURTS. Upon request of the court, the Department may share all background check results with a court of competent jurisdiction.

007.03 SHARING INFORMATION REGARDING INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN LICENSURE. When the Department completes a home study



as the result of a request through the Interstate Compact for the Placement of Children, the Department will provide the home study and background checks, except for the national criminal history check, to the requesting state's Interstate Compact for the Placement of Children coordinator.

008. PROVISION OF LIABILITY AND DAMAGE INSURANCE. Insurance for foster parents is provided in accordance with Neb. Rev. Stat. § 43-1320.

009. ADOPTIVE HOME STUDY. The Department may complete a preplacement or postplacement adoptive home study or contract with a child placing agency to complete the adoptive home study. The adoptive home study must be completed on the Department approved format and must include an examination into factors that may influence the long-term success of the adoption. The home study must include a national criminal history records check as required by Neb. Rev. Stat. § 43-107 and all other background checks required for a foster care license as set forth in this chapter.

TITLE 395  
CHILDREN AND FAMILY SERVICES  
PROTECTION AND SAFETY

CHAPTER 3 FOSTER CARE: LICENSURE, APPROVAL, AND HOME STUDIES

3-000 DEFINITIONS

REASONABLE AND PRUDENT PARENT STANDARD means a standard characterized by careful and sensible parental decisions which maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities.

3-001 FOSTER CARE LICENSE: A foster care license is the State's authorization to provide care for children placed with the licensee, when the applicant has met licensing standards. A license issued to an applicant is effective for two years, and identifies the ages of children cared for, the number of children for whom the home is licensed, and the location of the licensed home.

3-001.01 Fees for a License: A foster parent will not be charged a fee for a foster care license.

3-001.02 General Limitations for Foster Care Licenses

3-001.02A Only one license can be issued for each address.

3-001.02B To be licensed for foster care, a person must be age of majority. If legally married, both spouses must be licensed, and meet all regulations in this section.

3-001.03 Application

3-001.03A Initial Application: The initial application must include the completed application form, completed references, and health information form.

3-001.03B Application for a Renewal License: The application for license renewal must include the application form and health information form.

3-001.03C Health Information: Each household member of the age of majority who will provide care, including each applicant, must present health information to document that she or he is physically and mentally capable of caring for children. For purposes of the initial license, the health information must include the signature of a health practitioner. For purposes of license renewal, a self-certifying report without the signature of a health practitioner is acceptable.

1. Prescribed Medications: If the Foster Care Licensee or applicant indicates that he/she is currently taking prescribed medications, they must be listed on the health report and signed by a health practitioner. The practitioner must describe any impact the medications may have on the applicant's ability to safely care for children.

2. Request for a Physical Exam: If the health information report indicates that an applicant has a potential health (physical, behavioral or emotional) problem that may interfere with the applicant's ability to care for children, or if for some other reason the licensing agent or agency has reason to believe such a health problem exists, the licensing agent or agency must request a report by a physician. This report must describe any impact the health problem may have on the applicant's ability to safely care for children. The Department will not pay for the examination or report. If the applicant does not supply the requested report, the license application will be denied.

If there is reason to believe that other persons in the household pose a health (physical or behavioral) related issue that could impact their ability to safely care for children, the applicant must present appropriate health information from a practitioner to allow determination that the condition does not impact the applicant's ability to safely care for children.

3-001.03D References: For purposes of the initial application, each applicant must provide the names and contact information of at least three individuals who can provide positive written references. No more than one of the individuals may be related to the applicant.

3-001.03E Time Frame for Processing the Application: The licensing agent or agency must initiate action on an application within ten business days of receipt of the completed application. If an applicant fails to provide the complete application, or fails to cooperate in the licensing process, the application for a license will be denied. Applications that have been determined to be incomplete for three months or longer will be denied.

3-001.04 Character and Ability: All adults providing foster care must:

1. Be mentally and physically able to provide care and supervision to children;
2. Exercise reasonable judgment when caring for children; and
3. Not engage in or have a history of behaviors which would injure or endanger the physical, mental health, or safety of children.

3-001.04A Character and Ability of Others in the Home: A license may be revoked when it has been determined that any individual residing in the home of a licensed foster care provider has engaged in behaviors that have or would compromise the safety or well-being of a child.

~~3-001.05 Background Checks:~~ The licensee and all other members of the household must submit to required background checks, as follows:

- ~~1. State Central Register or Registry of child protection for any state in which the applicant has lived within the past five years (if age 13 or older);~~
- ~~2. Adult Protective Services Central Registry (if age 13 or older);~~
- ~~3. Appropriate local law enforcement agency (if age 18 or older);~~
- ~~4. Sex Offenders Registry for any state in which the applicant has lived within the past five years (if age 18 or older);~~
- ~~5. State-level criminal history (if age 18 or older); and~~
- ~~6. Fingerprint-based National Criminal History Check with the Identification Division of the Federal Bureau of Investigation (if age 18 or older).~~

~~3-001.06 Release of Information:~~ In order to perform the background checks, the licensing agent or agency must obtain a signed written release of information from each individual living in the home. The release must include all previous known names, including maiden names and aliases. A child's release of information must be signed by the child's parent or guardian.

~~3-001.07 Sharing Information:~~ The Department is prohibited by federal rules and regulations from sharing the results of the national criminal history check with any person or entity, except as described below.

~~3-001.07A Sharing Information with the Applicant:~~ The Department can share the results of the Criminal History Release of Information with the subject of the national criminal history check when legal identification is provided. The Department will provide the applicant with the opportunity to question the results and advise the applicant that there are procedures for obtaining a change, correction, or update of the FBI record.

~~3-001.07B Sharing Information with Attorneys or Courts:~~ The Department can share all background check results except the National Criminal History Check with courts and attorneys.

~~3-001.07C Sharing Information Regarding Interstate Compact on the Placement of Children Licensure:~~ The Department will include the results of all background checks except for the National Criminal History check when appropriate, or can state that there is no known criminal history.

~~3-001.08 Action Based on Criminal History and Child Abuse/Neglect Reports:~~ If the individual has a criminal history or history of child abuse or neglect, the Department will determine if the criminal history allows or prohibits licensure, based on the following criteria:

~~3-001.08A Ineligible:~~ A person convicted of a felony involving abuse or neglect of a child, spousal abuse, a crime against a child or children (including child pornography) or a crime of violence (including rape, sexual assault, or homicide, but not including other physical assault or battery) is ineligible to provide foster care. A person who is identified as a perpetrator on a Central Registry or equivalent in any state is ineligible to provide foster care.

~~3-001.08B Ineligible For Five Years:~~ A person convicted of a felony involving physical assault (other than a crime of violence described in 3-001.08A), battery, or a drug-related offense is ineligible to provide foster care for five years after the date of conviction.

~~3-001.08C Eligible at Department's Discretion:~~ If a person has been convicted of a crime or crimes that do(es) not otherwise result in ineligibility, the Department will review the facts and circumstances of the conviction(s) to determine whether the person is eligible to provide foster care.

~~3-001.09 Participation in Activities:~~ The licensee must:

- ~~1. Permit each foster child to participate in age appropriate school, extracurricular, enrichment, cultural, and social activities;~~
- ~~2. Permit each child to practice and further his/her own religious beliefs; and~~
- ~~3. Exercise the Reasonable and Prudent Parent Standard when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities.~~

~~3-001.10 Maximum Number of Persons for Whom Care Can Be Provided: A foster parent may provide care for adults and children, including foster children and children related by blood, marriage or adoption, according to the following maximum placement limits.~~

~~The applicable maximum placement limit for children will be reduced in an amount equal to the number of adults in the home for whom the foster parent(s) provide(s) 24 hour care and supervision.~~

~~3-001.10A Homes with Two Licensed Foster Parents: No more than six children may reside in a home with two licensed foster parents. No more than four children under age six may reside with two licensed foster parents.~~

~~3-001.10B Homes with One Licensed Foster Parent: No more than four children may reside in a home with one licensed foster parent. No more than two children under age six may reside with one licensed foster parent.~~

~~3-001.10C Exception: The Department in its discretion may allow a home to exceed the maximum placement limit when doing so is in the best interest of each child in the home.~~

~~3-001.11 Discipline: The foster parent(s) must provide age appropriate discipline for children in their home. The following are prohibited by foster parents or any caregiver of the foster children:~~

- ~~1. Denial of necessities;~~
- ~~2. Chemical or mechanical restraints;~~
- ~~3. Derogatory remarks, abusive or profane language;~~
- ~~4. Yelling, screaming or threats of physical punishment;~~
- ~~5. Physical punishment of any kind to include spanking, slapping, shaking, biting, striking, kicking;~~
- ~~6. Rough handling; and~~
- ~~7. Denial of visits or contact with parent(s), sibling(s), or others, as designated by the Department.~~

~~The foster parent shall not delegate discipline of a child to anyone who is not in a caregiver role.~~

~~3-001.12 Confidentiality:~~ All information concerning a child and his or her family is considered confidential and will only be disclosed for purposes that benefit the child. Pictures and information regarding the child will not be posted on social media sites.

~~3-001.13 Cooperation:~~ The licensee must cooperate with the licensing agent and licensing agency.

~~3-001.14 Records:~~ The licensed caregiver is responsible for ensuring each child in their care has routine medical, vision and dental care necessary for the child's well-being. The licensed caregiver will maintain and keep the child's medical history to include the following accurate written information on each child in their care:

- ~~1. Full name of child;~~
- ~~2. Name, address, and phone number of the child's physician;~~
- ~~3. Name, address, and phone number of the person or agency holding legal custody of the child;~~
- ~~4. Past (if available) and current immunizations;~~
- ~~5. The administering of all medications;~~
- ~~6. Significant health problems;~~
- ~~7. Emergency medical treatment and intervention received; and~~

~~3-001.15 Transportation Safety:~~ The licensee is responsible to transport and accompany children in their care to necessary medical, dental, vision and other health (physical or behavioral) related appointments. The licensee is responsible to ensure that safety restraints are available and used for each child transported, in compliance with Neb. Rev. Stat. §§ 60-6,267, 60-6,268, and 71-1907. Failure to comply with transportation safety will result in an action being taken against the licensee.

~~3-001.16 On-Site Visits:~~ The licensee must agree to on-site home visits by the licensing agent and agency having legal custody of a child.

#### 3-001.17 Environmental Requirements

~~3-001.17A Facilities:~~ The licensee shall assure that:

- ~~1. A minimum of 35 square feet per individual excluding bedrooms, bathroom(s), and kitchen;~~
- ~~2. Bedrooms or sleeping areas meet the following criteria:~~
  - ~~a. At least 35 square feet for each child occupying the bedroom or sleeping area;~~
  - ~~b. Each child must be provided with a bed, bedding, and a place to store his or her belongings; and~~
  - ~~c. When required by the placing agency or the Department, the licensee must provide separate bedrooms for children of opposite sexes.~~

~~3-001.17B Water Supply:~~ The licensee shall ensure that the water supply meets one of the following criteria:

- ~~1. If from a private well, water must be tested at initial application and annually thereafter by a DHHS-certified lab for bacteria and nitrates; or~~
- ~~2. Water comes from a municipal source.~~

~~3-001.17C Nutrition and Food Service:~~ The licensee shall ensure that each child will be provided with a minimum of three meals per day which meet their daily nutritional needs.

~~3-001.17D Hazardous Materials and Equipment:~~ The licensee shall ensure that:

- ~~1. Drugs, cleaning agents, poisons, and other potentially hazardous items, materials, or equipment are inaccessible to youth or are used by youth under supervision of a caregiver;~~
- ~~2. All weapons and firearms are unloaded and locked or stored in a locked cabinet or area; and~~
- ~~3. All ammunition is stored in a locked cabinet or area and stored separate from the firearms.~~

~~3-001.17E Outdoor Recreational Area:~~ The licensee shall ensure that the grounds are clean, well-drained, and hazard-free.

~~3-001.17F Waste Disposal:~~ The licensee shall ensure that:

- ~~1. Garbage that is stored outside the home must be stored in containers and disposed of regularly; and~~
- ~~2. A sewer system is used.~~

~~3-001.17G Pets:~~ The licensee shall ensure that household pets:

- ~~1. Have no history of aggression;~~
- ~~2. Are licensed, if required by local or state statute or ordinance, and are current on any necessary or required vaccinations.~~

### 3-001.18 Fire Safety

~~3-001.18A Fire Safety for All Foster Homes:~~ The licensee must assure that:

- ~~1. A plan for evacuation from fire or like hazards is formulated and practiced with foster children;~~
- ~~2. The home has:
  - ~~a. At least two exits on grade level;~~
  - ~~b. At least two means of escape from every level of the home that is used for sleeping. One of the exits may be a window that is at least 5.7 square feet of clear space and no more than 44 inches off the ground; and~~
  - ~~c. Operable smoke detectors, maintained according to manufacturer's recommendations, which are located on each level of the home. For bedrooms located below grade level and used by foster children, the detectors must be single station approved detectors.~~~~



~~3-001.19 Fire Safety or Sanitation Requests: The licensing agent will submit all requests regarding fire safety or sanitation requirements to the state or local fire authority or to the state or local health department for a decision on suitability of the suggested alternative.~~

~~3-001.20 Compliance Checklist: Prior to licensure, re-licensure, or a license amendment, the licensing agent must complete a Department-designated compliance checklist. In order to complete the checklist for licensure or re-licensure, the licensing agent must make an on-site visit to the home.~~

~~3-001.21 Alternative Compliance: The Department may approve the request of an applicant or current licensee to comply with a licensing standard in a different way from what is stated in the standard but still meets the intention of the standard. The applicant/licensee must submit the request in writing. The licensing agent must approve prior to licensing. The applicant/licensee must resubmit the alternative compliance request for approval each time a license is requested to be issued, amended, renewed, or reinstated.~~

~~3-001.22 Waiver of Licensing Requirements for Relatives: The Department in its discretion may waive the following licensing requirements for an applicant who is related by blood, marriage, or adoption to the child requiring placement:~~

- ~~1. The requirement that no more than one relative may provide a reference;~~
- ~~2. The maximum number of persons for whom care can be provided;~~
- ~~3. The requirements regarding minimum square feet per child occupying a bedroom and per individual excluding bedrooms, bathrooms, and kitchen;~~
- ~~4. The requirement that a home have at least two exits on grade level; and~~
- ~~5. Training.~~

~~3-001.23 Declaratory Ruling: An applicant/licensee may request a declaratory ruling regarding the application of a requirement to his/her particular situation. Both the applicant/licensee and the licensing agent must submit written statements to the Director, including the following information:~~

- ~~1. The requirement being questioned;~~
- ~~2. The decision being sought;~~
- ~~3. All pertinent facts about the specific situation; and~~
- ~~4. The rationale for his/her interpretation.~~

~~3-001.24 Amending a License:~~ A license can be amended at the written request of the foster parent when the foster parent wants to change the number or age of children cared for, or the address, except that if the change requires application of additional or different regulations, those requirements must be met before the amended license is issued. If the reason for the request is change of address, a compliance checklist must be completed for the new residence to assure that it meets licensing requirements and a new license application is needed. Following the issuance of a license, if a foster parent makes changes in number of children for whom s/he is licensed or the ages of the children cared for, the license will be amended after the licensee requests a change. If the request results in a different licensing standard, a new license application is needed and the regular evaluation process conducted. Amending a license does not change the end date of the original license.

~~3-001.25 Renewal of License:~~ In order for renewal of a license to occur, all licensing requirements and processes applicable to the original license must be applied, unless specified otherwise in the description of the individual requirement.

~~3-001.26 Extending a License:~~ A current license can be extended for 90 days when the licensee has submitted a completed renewal application to the Department prior to the expiration of current license. A provisional license cannot be extended.

~~3-001.27 Provisional License:~~ The Department may issue a time-limited, nonrenewable provisional license to an applicant who is unable to comply with all licensure requirements and standards, has a documented plan to comply, and is capable of compliance within the time period stated in the license as approved by the licensing agent and licensing agency.

~~3-001.28 Training:~~ The licensee must complete training as follows:

- ~~1. Initial license: Not less than 21 clock hours of Department-approved pre-service training before initial licensure, with such training obtained within the 12 months immediately prior to licensure.~~
- ~~2. Renewal license: At least 12 clock hours of Department Approved Inservice Trainings annually within the effective dates of his/her license.~~

~~3-001.28A Activities Counted as Training:~~ To be counted toward the pre-service or in-service training requirements, training must be approved by the Department.

~~3-001.28A1 Documentation:~~ The applicant/licensee must provide written documentation of training received.

~~3-001.29 Licensing Action:~~ A licensing action includes any of the following:

- ~~1. Denial;~~
- ~~2. Revocation;~~
- ~~3. Placing the license into provisional status;~~
- ~~4. Suspension; or~~
- ~~5. Closure.~~

The Department will provide written notice of all licensing actions, including the reason for the action and, when applicable, the right to appeal the action, to the applicant or licensee. The Department cannot take a licensing action for conduct solely involving a foster parent's exercise of the Reasonable and Prudent Parent Standard.

3-001.29A Revocation: The Department will revoke the license of any licensee who does not comply with requirements after having been given written notice in accordance with noncompliance procedures.

3-001.29B Provisional License: The Department may change an existing license to provisional status when:

1. The current licensee is unable to comply with licensing regulations that do not present an unreasonable risk to the health, safety, or well-being of the foster children in the care of the applicant;
2. The licensee provides a written plan for coming into compliance and agrees to that plan in writing; and
3. The time frame for coming into compliance does not exceed 180 days or extend beyond the end date of the license, whichever comes first.

The licensing agent must submit a request to the Department providing justification for the issuance of a Provisional License. The licensing agent must follow up to assure that compliance was met within the stated time frame. If it is not, the license will be revoked.

3-001.29C Suspension of a License: A license may be suspended when one of the following exists:

1. When a complaint of suspected child or adult abuse or neglect has been received but the Department has not yet made a finding.
2. When the licensee has been placed on the APS Central Registry or the Child Abuse and Neglect Central Register as a perpetrator and the licensee has appealed that decision.
3. When any Department representative observes conditions or behaviors that may indicate suspected child or adult abuse or neglect.
4. When a licensee or member of the household has a criminal charge filed against him or her involving a crime against children or other crimes, which may affect the care of children; or
5. When a child under care dies.

When a court action is taken or an appeal decision is made regarding the issue which resulted in the suspension, the license must be reinstated or revoked. In no case will a suspension extend beyond the end date of the current license. Suspension of a license is not an appealable action.

3-001.30 Appeal of Negative Licensing Actions: The licensee has the right to appeal the revocation or denial of a license within ten days of delivery of a letter from the Department that provides notice of the intention to take the action. If the Licensee submits a written appeal within ten days of delivery of notice, the licensing action will not be taken until the appeal decision is issued by the Director of the Division of Children and Family Services. Such appeals will be carried out in accordance with the Administrative Procedure Act and 465 NAC 6.

~~3-002 APPROVAL OF FOSTER HOMES:~~ Prior to placement of a child who is a ward of the Department into a foster home, the Department will approve the home, or will obtain approval through the ICPC process when applicable.

~~3-002.01 Emergency Approval of Relative and Kinship Homes:~~ Emergency approval of a relative or kinship is allowed when approval prior to placement is unfeasible, subject to the following requirements. A relative is defined as being related by blood, marriage or adoption. Kinship is defined when at least one of the primary caretakers has previously lived with or has had significant contact with the child or children or sibling of a child and has a bond with the child.

~~3-002.01A Emergency Approval Requirements~~

- ~~1. Visit to the home of the potential caregiver, including a face-to-face meeting with at least one of the prospective adult caregivers (If the placement is made by law enforcement, the visit by the worker must be made no later than the following working day);~~
- ~~2. Assurance that there is adequate housing;~~
- ~~3. Assurance that the adult caregiver is able to adequately meet the needs of the child;~~
- ~~4. Completion of relevant background checks on all household members:
  - ~~a. For household members age 13 through 17 the background check must include a check of the:
    - ~~1) CPS Central Register for all states in which the individual has lived within the past five years; and~~
    - ~~2) Adult Protective Services Central Registry.~~~~
  - ~~b. For household members age 18 and older the background check must include:
    - ~~1) CPS Central Register check;~~
    - ~~2) Adult Protective Services Central Registry check;~~
    - ~~3) Sex Offender Registry check for all states in which the individual has lived within the past five years;~~
    - ~~4) Local law enforcement agency check; and~~
    - ~~5) Emergency, name-only check with the NE State Patrol;~~~~~~

~~3-002.01B Emergency Approval Time Limit:~~ Emergency approval will not extend beyond sixty days from the date of placement without an extension done by the Department.

3-002.02 Non-Emergency Approval of Relative and Kinship Homes

3-002.02A Requirements

1. ~~Completion of relevant background checks on all household members:~~
  - a. ~~For household members age 13 through 17 the background check must include a check of the:~~
    - 1) ~~CPS Central Register; and~~
    - 2) ~~Adult Protective Services Central Registry.~~
  - b. ~~For household members age 18 and older the background check must include:~~
    - 1) ~~CPS Central Register for all states in which the individual has lived within the past five years;~~
    - 2) ~~Adult Protective Services Central Registry check;~~
    - 3) ~~Sex Offender Registry check;~~
    - 4) ~~Local law enforcement agency check; and~~
    - 5) ~~National fingerprint-based criminal history check.~~
2. ~~Completion of the appropriate home study.~~

3-002.02B Action Based on Required Checks: ~~If a person living in the potential relative or kinship foster home has a felony conviction, is on the Sex Offender Registry or has a substantiated finding on the CPS Central Register or APS Central Registry, non-emergency approval shall be denied, unless an exception is given, by the Department.~~

~~If a household member's background check reveals a criminal conviction other than a felony, or there is reason to believe the individual is currently charged, or under indictment for a crime, or has any other criminal record, approval can be granted only in writing, by the Department.~~

3-003 HOME STUDIES

3-003.01 Home Study: ~~The Department will complete a home study when one of the following conditions exists:~~

1. ~~An individual or legally married couple has applied to the Department to become a licensed foster or adoptive home;~~
2. ~~An individual or legally married couple is renewing their foster care license;~~
3. ~~The individual or legally married couple is being considered for placement of a child related to the child by blood, marriage, or adoption on an approval basis;~~
4. ~~The Department may complete a home study if the individual is the non-custodial parent of a child in the custody of the Department;~~
5. ~~The Department is requested through the ICPC to complete a home study for a potential foster or adoptive person or parent of a child in the custody of an agency or under the jurisdiction of a court in another state; or~~
6. ~~The Department is ordered by a court to complete a home study on a stepparent desiring to adopt his or her stepchild.~~

~~3-003.02 Age of Majority:~~ The applicant must be the age of majority in order to be considered eligible for a home study, unless an exception is made by the Department.

~~3-003.03 Completed Home Study:~~ In order to be complete, a home study must be in writing, include information regarding all required elements, and have the written approval of the Department. If at any point, the Department determines that the subject of the home study is unable or unwilling to provide the required care, the home study will be considered incomplete, and approval of placement will be denied.

~~3-004 PROVISION OF LIABILITY AND DAMAGE INSURANCE:~~ The Department will provide insurance coverage for foster parents for liability and damage. Any foster home or adoptive home licensed or approved by the Department or Indian Tribal Councils within Nebraska are covered by insurance for the period of time that an HHS or HHS/OJS ward is placed in the home. This insurance coverage also exists for any foster or adoptive home licensed or approved by the Department, or Indian Tribal Councils within Nebraska, for the period of time that a child covered under a IV-E contract is placed in the home. The foster parent(s) in the home are considered as 'the insured'. The Department covers the cost of the insurance premium for each foster home. When a foster parent requests reimbursement for damages to property incurred by the ward the Department will:

- ~~1. Provide the foster parent with the claims adjuster's phone number; and~~
- ~~2. Provide information to the claims adjuster when requested.~~

~~3-005 NATIVE AMERICAN FOSTER CARE LICENSING:~~ Native American Foster Homes are foster homes which are licensed through a tribal entity and are located on tribal ground.

~~3-005.01 Number of Children:~~ The maximum number of children in Native American Foster Homes shall be based on tribal traditions and customs, not number of persons in the home, without compromising the safety of children, adults in care, and others in the household.

~~3-005.02 Initial Application~~

~~3-005.02A Emergency Approval Requirements:~~ Native American Foster Family Homes will comply with the following:

- ~~1. Each household member of the age of majority who will provide care including each applicant must present health information to document that she or he is physically and mentally capable of caring for children. For purposes of the initial license, the health information must include the signature of a health practitioner. For purposes of license renewal, a self-certifying report without the signature of a health practitioner is acceptable, unless there is reason to believe that a health practitioner's statement is warranted.~~
- ~~2. If the individual indicates that he/she is currently taking prescription medications, the licensing agency must assess the need for a written physician's statement regarding the medication's effect on the individual's ability to care for children.~~
- ~~3. Additional information regarding the physical and/or psychological condition of the Native American foster parent(s) is warranted only when such conditions may adversely affect the care, nurturance and training of the children.~~

~~3-005.03 License Renewal:~~ Native American Licensees must complete the renewal process under the same terms and conditions as the original license. The Native American Foster family may request to have a liaison person present for the on-site visit.

~~3-005.04 Requirements of Native American Foster Families:~~ Principal consideration will be given to the foster family's capacity to provide nurturance, understanding, Native American culture to children, a stable environment, supervision, and protection of children.

~~3-005.05 Environmental Requirements:~~ The foster home shall have:

- ~~1. Adequate toilet facilities;~~
- ~~2. Adequate bathing facilities;~~
- ~~3. Safe heat sources in each room used by children;~~
- ~~4. Refrigeration for perishables;~~
- ~~5. Adequate sleeping arrangements;~~
- ~~6. Working smoke detectors;~~
- ~~7. All weapons and ammunition stored in a locked cabinet or area; and~~
- ~~8. Grounds around the foster home that are safe and free of hazards considering the age and development of children in care.~~

### ~~3-006 COMPLAINTS~~

~~3-006.01 Licensing Violations:~~ The Department will investigate any licensed foster home after receiving an allegation of violation of licensing regulations.

- ~~1. The Department will accept complaints from anyone who witnessed a violation.~~
- ~~2. The identity of a complainant is not public information.~~
- ~~3. Only if found credible by the Department can such an allegation or complaint result in a negative licensing action.~~

~~3-006.02 Suspected Child Abuse or Neglect:~~ Upon receipt of a complaint alleging child abuse/neglect, or when suspecting abuse or neglect in the foster home, the licensing agent must:

- ~~1. Inform the complainant of his/her responsibility to report the situation to the proper law enforcement agency and to the Department; and~~
- ~~2. Immediately report the alleged abuse/neglect to the proper law enforcement agency and the Department.~~

~~3-006.03 Complaints Concerning Practice:~~ When a foster or adoptive parent has a complaint regarding a the Department casework decision or implementation of a policy or regulation involving himself or herself, the complaint will be addressed through the informal process of a meeting between the foster or adoptive parent, CFS Specialist, and CFS Supervisor. If possible, a plan to resolve the complaint will be developed. The foster parent will be advised in writing of the plan or reason for no action.