

**CHAPTER 75-03-36
LICENSING OF CHILD-PLACING AGENCIES**

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SECTION 1. Section 75-03-36-07 is amended as follows:

75-03-36-07. Responsibilities of the child-placing agency administrator.

1. The administrator shall:
 - a. Plan and coordinate with the governing body the development of policies and procedures governing the child-placing agency's services.
 - b. Ensure that the governing body is kept informed of matters affecting the child-placing agency's finances, operation, and provision of services.
 - c. Ensure employment of qualified staff and the administration of the child-placing agency's personnel policies.
 - d. Ensure that the child-placing agency and its services are made known to the community.
 - e. Maintain the ~~child-placing agency's~~ policies and procedures required by this chapter in written form.
 - f. Maintain a current organizational chart showing the child-placing agency's lines of accountability and authority.
 - g. Maintain a records retention policy that ensures adoption files are maintained permanently and foster care files are retained according to applicable foster care regulations.
2. The child-placing agency, under the administrator's direction, shall maintain a record for each client. A client's record must be kept current from the point of intake to termination of service and must contain information relevant to the provision of services.
3. The administrator who delegates responsibility for program development shall delegate those responsibilities to qualified staff members.

History: Effective April 1, 2010; amended effective January 1, 2012.

General Authority: NDCC 50-12-05

Law Implemented: NDCC 50-12

SECTION 2. Section 75-03-36-10 is amended as follows:

75-03-36-10. Staff functions and qualifications.

1. The child-placing agency shall employ or contract with staff with sufficient qualifications to enable them to perform the agency's fiscal, clerical, and maintenance functions.
2. The child-placing agency shall employ or contract with staff to perform the agency's administrative, supervisory, and placement services. These staff

and their qualifications, unless otherwise approved by the department, are as follows:

- a. The administrator shall provide for the general management and administration of the child-placing agency in accordance with the licensing requirements and policies of the child-placing agency's governing body. The administrator must have a bachelor's degree and a minimum of four years of professional experience in human services, at least two of which have been in administration including financial management, or must be an individual otherwise qualified and serving the child-placing agency as an administrator prior to April 1, 2010.
 - b. The placement supervisor shall supervise, evaluate, and monitor the work progress of the placement staff. The placement supervisor must be a licensed certified social worker and have a minimum of two years of experience in supervision of child placement workers or in child placement, or must have a master's degree in a human service-related field from an accredited school, and a minimum of two years of experience in supervision of child placement workers or in child placement, or must be an individual otherwise qualified and serving the child-placing agency as a placement supervisor prior to April 1, 2010.
 - c. The child placement worker shall perform intake services; provide casework or group work services, or both, for children and families; recruit and assess foster and adoptive homes; and plan and coordinate resources affecting children and families. The child placement worker must be a licensed certified social worker or a licensed social worker.
3. If the child-placing agency has no placement supervisor, the child placement worker must meet the education and experience requirements of the placement supervisor.
 4. Staff serving as child placement workers or child placement supervisors must meet the above-stated education and experience requirements or be excused from those requirements found in North Dakota Century Code chapter 43-41 on the licensing of social workers.
 5. Placement worker caseload must be limited to ensure the placement worker is able to make all the required contacts with the biological, foster, and adoptive families; adopted adults; and collateral parties.

History: Effective April 1, 2010; amended effective January 1, 2012.

General Authority: NDCC 50-12-05

Law Implemented: NDCC 50-12

SECTION 3. Section 75-03-36-13 is amended as follows:

75-03-36-13. Criminal ~~connection~~ conviction - Effect on licensure.

1. A prospective adoptive parent or any adult living in the prospective adoptive parent home, or a child-placing agency owner or employee, must not have been found guilty of, pled guilty to, or pled no contest to:
 - a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-17, assaults, threats, coercion, and harassment; 12.1-18, kidnapping; or 12.1-27.2, sexual performances by children; or in North Dakota Century Code section 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-22-01, robbery; 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; or 14-09-22, abuse or neglect of a child;
 - b. An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the North Dakota statutes identified in subdivision a; or
 - c. An offense, other than an offense identified in subdivision a or b, if the department determines that the individual has not been sufficiently rehabilitated. The department will not consider a claim that the individual has been sufficiently rehabilitated until any term of probation, parole, or other form of community corrections or imprisonment, without a subsequent charge or conviction, has elapsed. An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent charge or conviction, is prima facie evidence of sufficient rehabilitation.
2. The department has determined that the offenses enumerated in subdivisions a and b of subsection 1 have a direct bearing on the individual's ability to serve the public in a capacity as an adoptive home placement and as an owner or employee of a child-placing agency.
3. In the case of a misdemeanor simple assault described in North Dakota Century Code section 12.1-17-01, or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine that the individual has been sufficiently rehabilitated if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction.
4. The department may deny a request for a criminal background check for any individual who provides false or misleading information about the individual's criminal history.
5. The department may excuse a person from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted

and rejected. If a person is excused from providing fingerprints, the department may conduct a statewide criminal history record investigation in any state in which the person lived during the eleven years preceding the signed authorization for the background check.

History: Effective April 1, 2010; amended effective January 1, 2012.

General Authority: NDCC 50-12-05

Law Implemented: NDCC 50-12

SECTION 4. Section 75-03-36-16.1 is created as follows:

75-03-36-16.1. Adoptive Family Child Abuse and Neglect. A child-placing agency shall not place a child in an adoptive home if a person residing in the adoptive home, except a child placed for adoption, has been the subject of a child abuse or neglect assessment where a services-required decision was made unless the agency director or supervisor, after making appropriate consultation with persons qualified to evaluate the capabilities of the adoptive parents, documenting criteria used in making the decision, and imposing any restrictions deemed necessary, approves the adoptive assessment; and

1. The adoptive home's resident can demonstrate the successful completion of an appropriate therapy; or
2. The adoptive home's resident can demonstrate the elimination of an underlying basis precipitating the neglect or abuse.

History: Effective January 1, 2012.

General Authority: NDCC 50-12-05

Law Implemented: NDCC 50-12

SECTION 5. Section 75-03-36-22 is amended as follows:

75-03-36-22. Child-placing agency closure. A-Unless otherwise approved by the department, a child-placing agency licensed under this chapter may not cease operations before:

1. Notifying the department in writing of the child-placing agency's intent to close and the proposed date of closure, with details regarding how the child-placing agency plans to meet the requirements of this subsection. This notification must be received by the department not less than ninety days prior to the proposed date of closure;
2. All pending adoptive placements are finalized;
3. All families awaiting adoptive placement have been referred to other agencies or have closed their cases;
4. Custodians of children referred for services have been informed of the child-placing agency's closure and arrangements for transfer of the cases have been made;
5. The child-placing agency makes a reasonable attempt, which may require publication of a notice of closure, to notify former clients of the child-placing agency's closure;

6. Arrangements have been made with another resident licensed child-placing agency to retain all permanent adoption records and provide post-finalization services;
7. Arrangements have been made to transfer any other records which must be retained for a specific time period to the department; and
8. Temporarily retained records must be:
 - a. Boxed in banker-style boxes;
 - b. Clearly labeled; and
 - c. Indexed with the child-placing agency providing the index to the department in writing and electronically as specified by the department.

History: Effective April 1, 2010; amended effective January 1, 2012.

General Authority: NDCC 50-12-05

Law Implemented: NDCC 50-12

SECTION 6. Section 75-03-36-25 is amended as follows:

75-03-36-25. Provision of services to the child - Adoption.

1. The child-placing agency shall make every effort to place siblings together in an adoptive home. If it is not possible to place siblings together, the child-placing agency shall add written documentation in the child's file identifying the reasons the siblings could not be placed together and the plans formulated to keep the siblings in contact with one another after the adoption.
2. The child-placing agency shall provide a life book to the child, if the child does not already have one, and shall give the child an opportunity to explore the child's birth history in preparation for the child's adoptive placement.
3. When appropriate to the child's developmental needs, the child-placing agency shall provide ~~preplacement~~ pre-placement counseling to the child to assist the child in adjusting to adoption.
4. The child-placing agency shall begin recruitment efforts immediately upon referral for a child referred to the child-placing agency without an identified family. Diligent recruitment will include listing the child with local, regional, and national child-specific recruitment resources as directed by the child's child and family team.

History: Effective April 1, 2010; amended effective January 1, 2012.

General Authority: NDCC 50-12-05

Law Implemented: NDCC 50-12

SECTION 7. Section 75-03-36-36 is amended as follows:

75-03-36-36. Child-placing agencies' file and documentation requirements for foster care placements.

1. The child-placing agency shall adopt a written file and documentation policy requiring that, within thirty days after placement, the child-placing agency establish and thereafter maintain a file for each child. This file must include:
 - a. The child's full name, birth date, age, and gender;
 - b. Name and contact information, including that of the custodian, parents, and other pertinent individuals;
 - c. A signed care agreement, contract, or current court order establishing the child-placing agency's authority to accept and care for the child;
 - d. An explanation of custody and legal responsibility for consent to any medical or surgical care;
 - e. An explanation of responsibility for payment for care and services;
 - f. A current care plan;
 - g. A copy of the appropriate interstate compact forms;
 - h. Copies of periodic, at least quarterly, written reports to the child's parent, guardian, or legal custodian;
 - i. Medical records, including annual health tracks screenings, and evidence of appropriate medical ~~followthrough~~ follow through, immunization records, and height and weight records;
 - j. Records of annual dental examinations at intervals not to exceed six months. ~~Provide for including necessary~~ dental treatments, including necessary such as prophylaxis, repairs, and extractions;
 - k. School records, including individual education plans, if applicable; and
 - l. Records of eye examinations at intervals not to exceed two years. Children who are in need of glasses shall be supplied with glasses as required.
2. The child-placing agency shall adopt a written file and documentation policy ensuring that the child-placing agency shall maintain a current and systematically filed case record on each ~~client~~ foster family served. Permanent case records shall be kept in locked, fire-resistant filing cabinets. There shall be a master file or card catalog on all case records of the child-placing agency. The case records shall include at least the following:
 - a. A face sheet with current ~~addresses of contact information for foster parents of child clients or~~ and other significant persons;
 - b. Application documents;
 - c. Agency assessments and supporting documentation, including criminal history and child protection services registry check results;
 - d. Medical records with significant family health history and signed statements authorizing necessary medical or surgical treatment;
 - e. Correspondence;
 - f. Legal-Licensing documents; and
 - g. Child-placing agency agreements or contracts; ~~and~~
 - h. ~~A case service plan.~~

History: Effective April 1, 2010; amended effective January 1, 2012.

General Authority: NDCC 50-12-05, 50-12-07

Law Implemented: NDCC 50-12

SECTION 8. Section 75-03-36-37 is amended as follows:

75-03-36-37. Child and family plan of care for foster children. The child-placing agency shall adopt a written policy that ensures the child-placing agency will develop a written plan of care for each child and family. The policy must require:

1. The child-placing agency develop the care plan in conjunction with the child and family team;
2. The child's care plan be developed or reviewed within thirty days of placement with the child-placing agency;
3. The child's care plan be developed or reviewed with the appropriate participation and informed consent of the child or, when appropriate, the child's guardian or custodian;
4. Documentation that the child and ~~a~~the child-placing agency representative have participated in child and family team meetings on a ~~regular~~quarterly basis, and that input has been obtained from the custodian, child, family, foster family, and other pertinent team members;
5. Documentation that the child-placing agency has collaborated and communicated at regular intervals with other agencies that are working with the child to ensure coordination of services and to carry out the child's plan;
6. Documentation of services provided by other agencies, including arrangements that are made in obtaining them;
7. Documentation of the arrangements by which the child's special needs, including prescribed medication, diets, or special medical procedures, are met;
8. The child-placing agency to provide for annual dental examinations including necessary dental treatments such as prophylaxis, repairs, and extractions;
- ~~8-9.~~ The child-placing agency make reasonable efforts to gather information from the custodian, parents, foster parents, courts, schools, and any other appropriate individuals or agencies;
- ~~9-10.~~ Completion of a strengths and needs assessment of the child, biological family, and foster family;
- ~~10-11.~~ Identification of measurable goals, including timeframes for completion;
- ~~11-12.~~ Identification of the measures that will be taken or tasks that will be performed to assist the child and family with meeting the goals;
- ~~12-13.~~ Identification of the individual or entity responsible for providing the service or completing the task;
- ~~13-14.~~ A discharge plan, including a projected discharge date with special attention to discharge planning efforts for a child who is aging out of the foster care system; and

44.15. The child-placing agency to document in a child's service plan evidence of individualized treatment progress, to review the plan at least every thirty days, or more often if necessary, to determine if services are adequate and still necessary or whether other services are needed.

History: Effective April 1, 2010; amended effective January 1, 2012.

General Authority: NDCC 50-12-05

Law Implemented: NDCC 50-12