

**COMMENT DUE DATE: June 28, 2021**

**Date: June 16, 2021**

**Shirley Russell, CWS**  
**Holli Kyker, Policy Specialist**  
**Dena Thayer, Programs Administrator**

**405-595-7873**  
**405-982-2217**  
**405-693-6542**

It is important that you provide your comments regarding the **draft copy** of policy by the comment due date. Comments are directed to \*STO.LegalServices.Policy@okdhs.org. The proposed policy is **EMERGENCY**.

**SUBJECT:**

**CHAPTER 75. CHILD WELFARE SERVICES**

Subchapter 3. Child Protective Services

Part 1. Purpose, Definitions, and Child Abuse and Neglect Hotline Protocol

340:75-3-120 [AMENDED]

Part 2. Investigative Protocols

340:75-3-200 [AMENDED]

Part 3. Child Safety Evaluation Criteria and Procedure

340:75-3-300 [AMENDED]

Part 4. Specialized Investigative Protocols, Child Death or Near-Death Reporting Protocols

340:75-3-400 [AMENDED]

Part 5. Investigative Findings and Appeals

340:75-3-520 [AMENDED]

340:75-3-530 [AMENDED]

Subchapter 4. Family-Centered and Community Services

Part 1. Family-Centered Services

340:75-4-12.1 [AMENDED]

Subchapter 6. Permanency Planning

Part 7. Family and Child Individualized Service Planning Components

340:75-6-40.9 [AMENDED]

Subchapter 7. Foster Home Care

Part 2. Development of Resource Families

340:75-7-15 [AMENDED]

340:75-7-18 [AMENDED]

Subchapter 11. Community-Based Residential Care

Part 17. Contracted Community-Based Residential Care Providers

340:75-11-230 [AMENDED]

Part 29. Contracted Level C Qualified Residential Treatment Programs (QRTP)

340:75-11-330 [AMENDED]

Part 33. Contracted Level D Plus and Level E Qualified Residential Treatment Programs (QRTP)

340:75-11-360 [AMENDED]

340:75-11-364 [NEW]  
(Reference WF 21-11)

**SUMMARY:**

The proposed amendments to Chapter 75 Subchapter 3: (1) revise "neglect" definition, per House Bill (HB) 2565 (2021); (2) authorize court-ordered transport of child to an examination or interview, per Senate Bill (SB) 987 (2021); (3) permit a Safety Plan monitor to authorize medical or dental treatment or examinations when necessary, per HB 1902 (2021); (4) revise a newborn's age for relinquishment, per SB 960 (2021); (5) establish a process to notify Child Care Services (CCS) about a person responsible for the child's (PRFC) substantiated heinous and shocking abuse finding, per HB 1797 (2021); and (6) revise appeals notification process as a result of organizational changes due to the COVID-19 pandemic.

The proposed amendment to Chapter 75 Subchapter 4 acknowledges a change to the Safety Plan monitor's authority regarding medical or dental treatment for a child, per HB 1902 (2021).

The proposed amendment to Chapter 75 Subchapter 6 expands the criteria for the court to terminate parental rights (TPR), per HB 1902 (2021).

The proposed amendments to Chapter 75 Subchapter 7 set the timeframe for completing fingerprint verification for emergency kinship placements, per SB 27 (2021), and revise the rule to agree with federal State Plan requirements about exceeding the maximum number of children residing in a resource home.

The proposed amendments to Chapter 75 Subchapter 11 state the care options available for youth needing placement in community-based residential care (CBRC). These policy changes address placement issues Oklahoma Human Services (OKDHS) is confronting with courts and attorneys in Tulsa County.

**Emergency rulemaking approval is requested** to comply with 2021 legislative changes found in HB 1797, HB 1902, HB 2565, SB 27, SB 987, and SB 960.

**LEGAL AUTHORITY:** Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162).

Chapter 75 Subchapter 3: 10 O.S. §§ 175.20, 402, and 406; 10A O.S. §§ 1-1-102, 1-1-105, 1-2-101, 1-2-102, 1-2-105 through 1-2-107, 1-2-109, 1-3-102, 1-3-104, 1-4-102, 1-4-201, 1-4-203, 1-4-204, 1-4-208, 1-4-806, 1-4-902, 1-6-102, 1-6-103, 1-6-105, and 1-9-102; 21 O.S. §§ 748, 748.2; and 1040.13a; 22 O.S. §§ 20 and 60.14; 47 O.S. § 11-1119; 57 O.S. §§ 581 et seq; 70 O. S. § 10-106; Section 671 of Title 42 of the United States Code (42 U.S.C. § 671) and § 5101.

Chapter 75 Subchapter 4: 10A O.S. §§ 1-7-112 and 1-9-110.

Chapter 75 Subchapter 6: 10A O.S. §§ 1-4-101, 1-4-705, 1-4-709, 1-4-710, 1-4-901, 1-4-902, 1-4-904, 1-4-906 through 1-4-909; 43 O.S. § 118 and 119; 63 O.S. § 1-227.10; Title IV-E of the Social Security Act.

Chapter 75 Subchapter 7: Oklahoma Indian Child Welfare Act, 10 O.S. §§ 40 et seq. and 405.3; 10A O.S. §§ 1-7-111 and 1-7-115; 21 O.S. §§ 692 and 1290.2; 47 O.S. § 11-1112; 57 O.S. § 582; 18 U.S.C. §16.

Chapter 75 Subchapter 11: 10A O.S. §§ 1-1-105, 1-7-103, 1-9-110, and 1-9-123.





## OKLAHOMA DEPARTMENT OF HUMAN SERVICES



### Rule Impact Statement

**To:** Programs administrator  
Legal Services

**From:** Deborah Shropshire, M.D., Director  
Child Welfare Services (CWS)

**Date:** October 6, 2021

**Re:** **CHAPTER 75. CHILD WELFARE SERVICES**  
Subchapter 3. Child Protective Services  
Part 1. Purpose, Definitions, and Child Abuse and Neglect Hotline Protocol  
340:75-3-120 [AMENDED]  
Part 2. Investigative Protocols  
340:75-3-200 [AMENDED]  
Part 3. Child Safety Evaluation Criteria and Procedure  
340:75-3-300 [AMENDED]  
Part 4. Specialized Investigative Protocols, Child Death or Near-Death Reporting Protocols  
340:75-3-400 [AMENDED]  
Part 5. Investigative Findings and Appeals  
340:75-3-520 [AMENDED]  
340:75-3-530 [AMENDED]  
Subchapter 4. Family-Centered and Community Services  
Part 1. Family-Centered Services  
340:75-4-12.1 [AMENDED]  
Subchapter 6. Permanency Planning  
Part 7. Family and Child Individualized Service Planning Components  
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Part 2. Development of Resource Families  
340:75-7-15 [AMENDED]  
340:75-7-18 [AMENDED]  
Subchapter 11. Community-Based Residential Care  
Part 17. Contracted Community-Based Residential Care Providers  
340:75-11-230 [AMENDED]  
Part 29. Contracted Level C Qualified Residential Treatment Programs (QRTP)  
340:75-11-330 [AMENDED]

Part 33. Contracted Level D Plus and Level E Qualified Residential Treatment Programs (QRTP)

340:75-11-360 [AMENDED]

340:75-11-364 [NEW]

**(Reference WF 21-11)**

**Contact:** Shirley Russell, Policy & Forms Programs Administrator, 405-595-7873

**A. Brief description of the purpose of the proposed rule:**

The proposed amendments to Chapter 75 Subchapter 3: (1) revise "neglect" definition, per House Bill (HB) 2565 (2021); (2) authorize court-ordered transport of child to an examination or interview, per Senate Bill (SB) 987 (2021); (3) permit a Safety Plan monitor to authorize medical or dental treatment or examinations when necessary, per HB 1902 (2021); (4) revise a newborn's age for relinquishment, per SB 960 (2021); (5) establish a process to notify Child Care Services (CCS) about a person responsible for the child's (PRFC) substantiated heinous and shocking abuse finding, per HB 1797 (2021); and (6) revise appeals notification process as a result of organizational changes due to the COVID-19 pandemic.

The proposed amendment to Chapter 75 Subchapter 4 acknowledges a change to the Safety Plan monitor's authority regarding medical or dental treatment for a child, per HB 1902 (2021).

The proposed amendment to Chapter 75 Subchapter 6 expands the criteria for the court to terminate parental rights (TPR), per HB 1902 (2021).

The proposed amendments to Chapter 75 Subchapter 7 set the timeframe for completing fingerprint verification for emergency kinship placements, per SB 27 (2021), and revise the rule to agree with federal State Plan requirements about exceeding the maximum number of children residing in a resource home.

The proposed amendments to Chapter 75 Subchapter 11 state the care options available for youth needing placement in community-based residential care (CBRC). These policy changes address placement issues Oklahoma Human Services (OKDHS) is confronting with courts and attorneys in Tulsa County.

**Purpose.**

The requested emergency rules are amended to update rules following the passage of 2021 Oklahoma legislation and to resolve issues with the Tulsa courts and attorneys regarding available placements and services for youth. The proposed amendments limit the number of placement moves per the Pinnacle Plan/Core Strategies. Additionally, following discussion with the federal Children's Bureau, the proposed amendments align rules with the Title IV-E State Plan requirements to prevent putting federal funding at risk.

**Strategic Plan Impact.**

The proposed amendments to Chapter 75 Subchapter 3 achieve OKDHS goals by ensuring policy on child abuse and neglect reflects statutory changes to benefit children, parents, and staff.

The proposed amendment to Chapter 75 Subchapter 4 achieves OKDHS goals by improving access to medical and dental treatment that benefits children and parents.

The proposed amendment to Chapter 75 Subchapter 6 achieves OKDHS goals by updating the TPR criteria which benefits children, parents, and staff.

The proposed amendments to Chapter 75 Subchapter 7 achieves OKDHS goals by updating background information search and assessment of resource applicants and traditional kinship homes which benefit children, parents, kin, providers, and staff.

The proposed amendments to Chapter 75 Subchapter 11 achieve OKDHS goals by clarifying the type of CBRC contracts that provide qualified residential treatment programs (QRTP) which benefit children, parents, providers, attorneys, judges, and staff.

### **Substantive changes.**

#### **Subchapter 3. Child Protective Services**

##### **Part 1. Purpose, Definitions, and Child Abuse and Neglect Hotline Protocol**

Oklahoma Administrative Code (OAC) 340:75-3-120 is amended to revise the definition of "neglect," per HB 2565 (2021).

##### **Part 2. Investigative Protocols**

OAC 340:75-3-200 is amended to authorize the court to order select individuals to transport a child to a court-approved location for interview or examination, per SB 987 (2021).

##### **Part 3. Child Safety Evaluation Criteria and Procedure**

OAC 340:75-3-300 is amended to permit Safety Plan monitors to seek medical and dental care for a child when the child's parent or guardian is unavailable, per HB 1902 (2021).

##### **Part 4. Specialized Investigative Protocols, Child Death or Near-Death Reporting Protocols**

OAC 340:75-3-400 is amended to increase a newborn's age for relinquishment to OKDHS from seven-calendar days to 30-calendar days, per SB 960 (2021).

##### **Part 5. Investigative Findings and Appeals**

OAC 340:75-3-520 is amended to establish a notification process with CCS for findings of PRFC heinous and shocking abuse, per HB 1797 (2021).

OAC 340:75-3-530 is amended to permit secure email notification to a PRFC regarding child abuse and neglect finding(s) and how to appeal substantiated finding(s).

#### **Subchapter 4. Family-Centered and Community Services**

##### **Part 1. Family-Centered Services**

OAC 340:75-4-12.1 is amended to grant a Safety Plan monitor the authority to seek necessary medical or dental care for a child when the child's parent or guardian is unavailable, per HB 1902 (2021).

#### **Subchapter 6. Permanency Planning**

##### **Part 7. Family and Child Individualized Service Planning Components**

OAC 340:75-6-40.9 is amended to enhance the court's TPR criteria to include when a parent or guardian abused or neglected any child or failed to protect any child from heinous or shocking abuse or neglect, per HB 2318 (2021).

#### **Subchapter 7. Foster Home Care**

##### **Part 2. Development of Resource Families**

OAC 340:75-7-15 is amended to state kinship fingerprint verification must be completed within five-business days immediately after a child entered emergency placement, per SB 27 (2021).

OAC 340:75-7-18 is amended to align language about maximum number of children residing in a resource home and variance of kinship home assessment with Title IV-E State Plan requirements.

#### Subchapter 11. Community-Based Residential Care

##### Part 17. Contracted Community-Based Residential Care

OAC 340:75-11-230 is amended to add QRTP to the CBRC placement types.

##### Part 29. Contracted Level C Qualified Residential Treatment Programs (QRTP)

OAC 340:75-11-330 is amended to change placement references to QRTP.

##### Part 33. Contracted Level D Plus and Level E Qualified Residential Treatment Programs (QRTP)

OAC 340:75-11-360 is amended to update the list of services provided in a Level D+ QRTP and clarify the criteria for a youth to qualify for a Level D+ QRTP.

OAC 340:75-11-364 is created to establish a separate rule for Level E QRTPs that delineates the services provided in Level E QRTPs, the qualifying criteria for services, and additional services available.

### **Reasons.**

Chapter 75 Subchapter 3: The proposed amendments address statutory changes improving outcomes for children and families.

Chapter 75 Subchapter 4: The proposed amendment reflects statutory change improving the health of children and families.

Chapter 75 Subchapter 6: The proposed amendment updates rule as a result of state statutory change.

Chapter 75 Subchapter 7: The proposed amendments address rules on background information searches and home assessments of traditional kinship and resource parent applicants.

Chapter 75 Subchapter 11: The proposed amendments clarify rules to provide more detail about QRTP services available for children.

### **Repercussions.**

Chapter 75 Subchapter 3: The proposed amendments align rules with statutory changes improving outcomes for children and families.

Chapter 75 Subchapter 4: The proposed amendment aligns rule with statutory change leading to improved child and family health.

Chapter 75 Subchapter 6: The proposed amendment aligns rule with statutory change resulting in better outcomes for children in OKDHS custody.

Chapter 75 Subchapter 7: The proposed amendments result in better safety and more access to kinship placements for children in OKDHS custody.

Chapter 75 Subchapter 11: The proposed amendments clarify CBRC's QRTP services benefiting children in OKDHS custody, attorneys, judges, placement providers, and CWS staff.

**Legal authority.** Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162).

Chapter 75 Subchapter 3: 10 O.S. §§ 175.20, 402, and 406; 10A O.S. §§ 1-1-102, 1-1-105, 1-2-101, 1-2-102, 1-2-105 through 1-2-107, 1-2-109, 1-3-102, 1-3-104, 1-4-102, 1-4-201, 1-4-203, 1-4-204, 1-4-208, 1-4-806, 1-4-902, 1-6-102, 1-6-103, 1-6-105, and 1-9-102; 21 O.S. §§ 748, 748.2; and 1040.13a; 22 O.S. §§ 20 and 60.14; 47 O.S. § 11-1119; 57 O.S. §§ 581 et seq; 70 O. S. § 10-106; Section 671 of Title 42 of the United States Code (42 U.S.C. § 671) and § 5101.

Chapter 75 Subchapter 4: 10A O.S. §§ 1-7-112 and 1-9-110.

Chapter 75 Subchapter 6: 10A O.S. §§ 1-4-101, 1-4-705, 1-4-709, 1-4-710, 1-4-901, 1-4-902, 1-4-904, 1-4-906 through 1-4-909; 43 O.S. § 118 and 119; 63 O.S. § 1-227.10; Title IV-E of the Social Security Act.

Chapter 75 Subchapter 7: Oklahoma Indian Child Welfare Act, 10 O.S. §§ 40 et seq. and 405.3; 10A O.S. §§ 1-7-111 and 1-7-115; 21 O.S. §§ 692 and 1290.2; 47 O.S. § 11-1112; 57 O.S. § 582; 18 U.S.C. §16.

Chapter 75 Subchapter 11: 10A O.S. §§ 1-1-105, 1-7-103, 1-9-110, and 1-9-123.

**Emergency rulemaking approval is requested** to comply with 2021 legislative changes found in HB 1797, HB 1902, HB 2565, SB 27, SB 987, and SB 960.

**B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the Agency from any private or public entities:**

Chapter 75 Subchapter 3: The classes of persons most likely to be affected by the proposed amendments are CWS staff, children, and families. The affected classes bear no costs associated with rule implementation.

Chapter 75 Subchapter 4: The classes of persons most likely to be affected by the proposed amendment are CWS staff, children, families, and Safety Plan monitors. The affected classes bear no costs associated with rule implementation.

Chapter 75 Subchapter 6: The classes of persons most likely to be affected by the proposed amendment are CWS staff, children in OKDHS custody, and families. The affected classes bear no costs associated with rule implementation.

Chapter 75 Subchapter 7: The classes of persons most likely to be affected by the proposed amendments are CWS staff, resource applicants, children in OKDHS custody, and placement providers. The affected classes bear no costs associated with rule implementation.

Chapter 75 Subchapter 11: The classes of persons most likely to be affected by the proposed amendments are CWS staff, children in OKDHS custody, and placement providers. The affected classes bear no costs associated with rule implementation.

**C. A description of the classes of persons who will benefit from the proposed rule:**

Chapter 75 Subchapter 3: The classes of persons who will benefit are CWS staff, children, and families.

Chapter 75 Subchapter 4: The classes of persons who will benefit are CWS staff, children, families, and Safety Plan monitors.

Chapter 75 Subchapter 6: The classes of persons who will benefit are CWS staff, children in OKDHS custody, and families involved in permanency cases.

Chapter 75 Subchapter 7: The classes of persons who will benefit are CWS staff, resource applicants, placement providers, and children in OKDHS custody.

Chapter 75 Subchapter 11: The classes of persons who will benefit are CWS staff, placement providers, and children in OKDHS custody.

- D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:** The proposed amendments do not have an economic impact on the affected entities.
- E. The probable costs and benefits to the Agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the Agency:** OKDHS includes the cost of printing and distributing the rules, which is estimated to be less than \$20. The proposed amendments will result in enhanced delivery of services to positively impact placement providers, families, and OKDHS staff.
- F. A determination whether implementation of the proposed rule will have an impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:** The proposed amendments do not have an economic impact on any political subdivision, nor will the cooperation of any political subdivisions be required in implementation or enforcement of the rules.
- G. A determination whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:** No adverse effects on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act are anticipated.
- H. An explanation of the measures the Agency has taken to minimize compliance costs and a determination whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:** Less costly, non-regulatory, or less intrusive methods are not available for achieving the purpose of the proposed amendments.
- I. A determination of the effect of the proposed rule on the public health, safety, and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety, and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:** Implementation of the proposed amendments clarifies and updates rules that facilitate quicker, more efficient service delivery to children and families and may reduce risks to children's health, safety, and environment.

**J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:** If the proposed amendments are not implemented, statutes and processes may not be followed as intended, thus delaying services to persons in need and placing children at risk.

**K. The date the rule impact statement was prepared and, if modified, the date modified:** Prepared October 6, 2021; modified n/a

## CHAPTER 75. CHILD WELFARE SERVICES

### SUBCHAPTER 3. CHILD PROTECTIVE SERVICES

#### PART 1. PURPOSE, DEFINITIONS, AND CHILD ABUSE AND NEGLECT HOTLINE PROTOCOL

##### **340:75-3-120. Definitions and substantiation protocol** ■ 3-89, and 11-50

Revised 4-19-192-1-22

(a) **Legislative intent.** Legislative intent, per Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102) states, "...it is the purpose of the laws relating to children alleged or found to be deprived to...intervene in the family only when necessary to protect a child from harm or threatened harm."

(b) **Definitions.** Terms used by Oklahoma Department of Human Services (~~DHS~~) (OKDHS) Child Welfare Services (~~CWS~~) not found in the Oklahoma Children's Code are defined in Oklahoma Administrative Code (~~OAC~~) 340:75-3-120 Instructions to Staff. The following words and terms, when used in the Oklahoma Children's Code, 10A O.S. §§ 1-1-105, 1-2-105, and 1-6-105; 21 O.S. §§ 748, 748.2; and 1040.13a; and in this Subchapter shall have the following meanings unless the context clearly indicates otherwise:

(1) **"Abandonment"** means the:

- (A) willful intent by words, actions, or omissions of the person responsible for the child's (PRFC) health, safety, or welfare not to return for a child;
- (B) failure to maintain a significant parental relationship with a child through visitation, family time, or communication, such as incidental or token visits or communication, which are not considered significant; or
- (C) failure to respond to notice of deprived proceedings. ■ 2

(2) **"Abuse"** means harm or threatened harm by a PRFC to a child's health, safety, or welfare including non-accidental physical or mental injury or sexual abuse or sexual exploitation; however, nothing prohibits a parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling.

(3) **"Age-appropriate"** or **"developmentally-appropriate"** means:

- (A) activities or items that are generally accepted as suitable for children of the same age or maturity level of ~~maturity~~ or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and
- (B) in the case of a specific child, activities or items that are suitable for that child based on the developmental stages ~~attained by the child~~ he or she attains with respect to ~~the~~ his or her cognitive, emotional, physical, and behavioral capacities ~~of the specific child~~.

(4) **"Assessment"** means a comprehensive review of child safety and evaluation of family functioning and protective capacities conducted in response to a child abuse or neglect referral that does not allege a serious and immediate safety threat to a child.

(5) **"Behavioral health"** means mental health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses, and the continuum

of mental health, substance use or abuse, or co-occurring mental health and substance use or abuse treatment.

(6) **"Child"** means any unmarried person 18 years of age and younger than 18 years of age, including an infant born alive.

(7) **"Children's emergency resource center"** means a community-based program that may provide:

(A) emergency care and a safe ~~and~~, structured, homelike environment or a host home for children providing food, clothing, shelter, and hygiene products to each child served;

(B) after-school tutoring;

(C) counseling services;

(D) life-skills training;

(E) transition services;

(F) assessments;

(G) family reunification;

(H) respite care; ~~and~~

(I) transportation to or from school, appointments with health care professionals, visitations or family time, court, and social or school activities, when necessary; and

~~(B)(J)~~ a stable environment for children in crisis who are in ~~DHS~~ OKDHS custody, when permitted under ~~DHS~~ OKDHS policies and regulations; or

~~(C)(K)~~ who were care for children voluntarily placed in the program by a parent or custodian during a temporary crisis.

(8) **"Child safety meeting"** means the collaborative decision-making process ~~DHS~~ OKDHS engages in to address each child's needs related to safety and, when the child's condition warrants a safety intervention including, but not limited to, a change in placement, and:

(A) those involved in the collaborative decision-making process include, at a minimum, appropriate ~~DHS~~ OKDHS staff, the child's parents, and, when the parent requests, an advocate or representative; and

(B) to protect the safety of those involved and to promote efficiency, ~~DHS~~ OKDHS may limit participants as determined to be in the child's best interests.

(9) **"Child with a disability"** means any child who has a physical or mental impairment that substantially limits one or more of the child's major life activities, or who is regarded as having such impairment by a competent medical professional.

(10) **"Commercial sex"** means any form of commercial sexual activity, such as sexually explicit performances, prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display, per 21 O.S. § 748.

(11) **"Custodian"** means an individual other than a parent, legal guardian, or Indian custodian, to whom legal custody of the child was awarded by the court. As used in the Oklahoma Children's Code, the term "custodian" does not mean ~~DHS~~ OKDHS.

(12) **"Dependency"** means a child who is homeless or without proper care or guardianship through no fault of his or her parent, legal guardian, or custodian.

(13) **"Deprived child"** means a child:

(A) who is for any reason destitute, homeless, or abandoned;

- (B) who does not have the proper parental care or guardianship;
- (C) who has been abused, neglected, or is dependent;
- (D) whose home is an unfit place for the child by reason of depravity on the part of the child's parent, legal guardian, custodian, or other ~~person responsible for the child's~~ PRFC health, safety, or welfare;
- (E) who is in need of special care and treatment because of the child's physical or mental condition, and the child's parents, legal guardian, or other custodian is unable or willfully fails to provide such special care and treatment. A child in need of special care and treatment includes, but is not limited to, a child who at birth tests positive for alcohol or a controlled dangerous substance and who, pursuant to a drug or alcohol screen of the child and an assessment of the parent, is determined to be at risk of harm or threatened harm to ~~the child's~~ his or her health or safety;
- (F) with a disability deprived of the nutrition necessary to sustain life, or deprived of the medical treatment necessary to remedy or relieve a life-threatening medical condition, in order to cause or allow the child's death ~~of the child~~ when such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment is necessary when, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child;
- (G) who, due to improper parental care and guardianship, is absent from school, per 70 O. S. § 10-106, when the child is subject to compulsory school attendance;
- (H) whose parent, legal guardian, or custodian for good cause desires to be relieved of custody;
- (I) who was born to a parent whose parental rights to another child were involuntarily terminated by the court and the conditions that led to the finding, which resulted in the termination of the parental rights of the parent to the other child, have not been corrected; or
- (J) whose parent, legal guardian, or custodian subjected another child to abuse or neglect or allowed another child to be subjected to abuse or neglect and is currently a respondent in a deprived proceeding.

(14) **"Drug-endangered child"** means a child who is at risk of suffering physical, psychological, or sexual harm as a result of the use, possession, distribution, manufacture, or cultivation of controlled dangerous substances or the attempt of any of these acts by a PRFC, per this Section and 10A O.S. § 1-1-105.

(A) This term includes circumstances wherein ~~the PRFC's~~ PRFC substance use or abuse interferes with his or her ability to parent and provide a safe and nurturing environment for the child.

(B) Per 10A O.S. § 1-2-101, every physician, surgeon, or other health care professional including doctors of medicine, licensed osteopathic physicians, residents and interns, any other health care professional, or midwife involved in the pre-natal care of expectant mothers or the delivery or care of infants who test positive for alcohol or a controlled dangerous substance, must promptly report the

matter to the ~~DHS~~ OKDHS. This includes infants who are diagnosed with neonatal abstinence syndrome or fetal alcohol spectrum disorder (FASD).

(C) Whenever ~~DHS~~ OKDHS determines that a child meets the definition of a "drug-endangered child" or was diagnosed with neonatal abstinence syndrome or ~~fetal alcohol spectrum disorder~~ FASD, and the referral is assigned, ~~DHS~~ OKDHS conducts an investigation of the allegations and does not limit the evaluation of the circumstances to an assessment, per 10A O.S. § 1-2-102.

(D) Whenever ~~DHS~~ OKDHS determines an infant is diagnosed with neonatal abstinence syndrome or ~~fetal alcohol spectrum disorder~~ FASD, ~~DHS~~ OKDHS develops a plan of safe care that addresses the infant and affected family member or caregiver and, at a minimum, their health and substance use or abuse treatment needs.

(15) "**Emergency custody**" means court-ordered custody of a child prior to the child's adjudication.

(16) "**Failure to protect**" means failure to take reasonable action to remedy or prevent child abuse or neglect, and includes the conduct of a non-abusing parent or guardian who knows the identity of the abuser or the person neglecting the child, but lies, conceals, or fails to report the child abuse or neglect, or otherwise take reasonable action to end the abuse or neglect.

(17) "**Foster parent**" means any person maintaining a therapeutic, emergency, specialized-community home, tribal, kinship, or foster family home responsible for providing care, supervision, guidance, rearing, and other foster care services to a child.

(18) "**Harm or threatened harm**" means any real or threatened physical, mental, or emotional injury or damage to the body or mind of a child that is not accidental including, but not limited to:

- (A) sexual abuse or sexual exploitation;
- (B) neglect; or
- (C) dependency.

(19) "**Heinous and shocking abuse**" means any aggravated physical abuse that results in serious bodily, mental, or emotional injury. Serious bodily injury means, but is not limited to, injury that involves:

- (A) substantial risk of death;
  - (B) extreme physical pain;
  - (C) protracted disfigurement;
  - (D) loss or impairment of a function of a body member, organ, or mental faculty;
  - (E) an injury to an internal or external organ or the body;
  - (F) bone fractures;
  - (G) sexual abuse or sexual exploitation;
  - (H) chronic abuse including, but not limited to, physical, emotional, or sexual abuse or sexual exploitation that is repeated or continuing;
  - (I) torture including, but not limited to, inflicting, participating in, or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child, or for the purpose of satisfying the perpetrator's or another person's craven, cruel, or prurient desires;
- or

- (J) any other similar aggravated circumstance.
- (20) **"Heinous and shocking neglect"** means neglect that includes, but is not limited to:
- (A) chronic neglect that includes, but is not limited to, a persistent pattern of family functioning in which the caregiver has not met or sustained the child's basic needs resulting in harm to the child;
  - (B) neglect that resulted in a diagnosis of the child as a failure to thrive;
  - (C) an act or failure to act by a parent that results in:
    - (i) serious physical or emotional harm;
    - (ii) sexual abuse or sexual exploitation;
    - (iii) the death or near death of a child or sibling; or
    - (iv) presents an imminent risk of serious harm to a child; or
  - (D) any other similar aggravating circumstance.
- (21) **"Human trafficking"** means modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual's commercial sex act or labor.
- (22) **"Human trafficking for commercial sex"** means:
- (A) recruiting, enticing, harboring, maintaining, transporting, providing, or obtaining, by any means, another person through deception, force, fraud, threat, or coercion for purposes of engaging the person in a commercial sex act;
  - (B) recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act; or
  - (C) benefiting, financially or by receiving anything of value, from participating in a venture engaged in an act of trafficking for commercial sex.
- (23) **"Infant"** means a child 12 months of age and younger.
- (24) **"Investigation"** means a response to an allegation of abuse or neglect that involves a serious and immediate threat to the safety of the child making it necessary to determine:
- (A) the current safety of the child and the risk of subsequent abuse or neglect;
  - (B) if child abuse or neglect occurred; and
  - (C) if the family needs prevention- and intervention-related services.
- (25) **"Minor in need of treatment"** means a child in need of mental health or substance use or abuse treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.
- (26) **"Multidisciplinary child abuse team"** means any team established, per 10A O.S. § 1-9-102 of three or more persons who are trained in the prevention, identification, investigation, prosecution, and treatment of physical and sexual child abuse and who are qualified to facilitate a broad range of prevention- and intervention-related services and services related to child abuse. For purposes of this definition, "freestanding" means a team not used by a child advocacy center for its accreditation;
- (27) **"Near death"** means a child is in serious or critical condition as a result of abuse or neglect verified by a physician, registered nurse, or other licensed health care provider. Verification of the medical condition of a child may be given in person or by phone, email, fax, or mail.
- (28) **"Neglect"** means:

- (A) the failure or omission by the PRFC to provide the child with:
    - (i) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or an appropriate education;
    - (ii) medical, dental, or behavioral health care;
    - (iii) supervision or appropriate caretakers to protect the child from harm or threatened harm any reasonable and prudent PRFC would be aware; or
    - (iv) special care made necessary for the child's health and safety by the child's physical or mental condition;
  - (B) the failure or omission by the PRFC to protect the child from exposure to:
    - (i) the use, abuse, possession, sale, or manufacture of illegal drugs;
    - (ii) illegal activities; or
    - (iii) sexual acts or materials that are not age-appropriate; or
  - (C) abandonment;.
- (29) **"Person responsible for the child's health, safety, or welfare"** means:
- (A) the child's parent, legal guardian, custodian, or foster parent. A custodian is an individual other than a parent, legal guardian, or Indian custodian to whom legal custody of the child was awarded by the court, per 10A O.S. § 1-1-105;
  - (B) a person 18 years of age and older with whom the child's parent cohabitates or any other adult residing in the child's home;
  - (C) an agent or employee of a public or private residential home, institution, facility, or day-treatment program, per 10 O.S. § 175.20;
  - (D) an owner, operator, or employee of a child care program, per 10 O.S. § 402, whether the home is licensed or unlicensed; or
  - (E) a foster parent maintaining a therapeutic, emergency, specialized-community, tribal, kinship, or foster family home responsible for providing care, supervision, guidance, rearing, and other foster care services to a child.
- (30) **"Physical abuse"** means an injury resulting from punching, beating, kicking, biting, burning, or otherwise harming a child. Even though the injury is not an accident, the PRFC may not have intended to hurt the child.
- (A) The injury may result from:
    - (i) extreme physical punishment inappropriate to the child's age or condition;
    - (ii) a single episode or repeated episodes that range in severity from significant bruising to death; or
    - (iii) any action including, but not limited to, hitting with a closed fist, kicking, inflicting burns, shaking, or throwing the child, even when no injury is sustained, but the action places the child at risk of grave physical danger.
  - (B) Minor injury of a child 10 years of age and older ~~than 10 years of age~~ is not considered physical abuse unless the actions that caused the injury placed the child in grave physical danger.
- (31) **"Plan of safe care"** means a plan developed for an infant with neonatal abstinence syndrome or a ~~fetal alcohol spectrum disorder~~ FASD, upon release from healthcare provider care that addresses the infant's and mother's or caregiver's health and substance use or abuse treatment needs.
- (32) **"Protective custody"** means custody of a child taken by law enforcement or designated employee of the court, without a court order.

(33) **"Reasonable parental discipline"** means parental use of ordinary force as a means of discipline including, but not limited to, spankings, switching, or paddling that does not result in bodily injury to the child.

(34) **"Risk"** means the likelihood that an incident of child abuse or neglect will occur in the future. ■ 2

(35) **"Risk factors"** means family behaviors and conditions that suggest the caregivers are likely to maltreat their child in the future.

(36) **"Safety analysis"** means ~~DHS~~ OKDHS action taken in response to a report of alleged child abuse or neglect that may include an assessment or investigation based upon an analysis of the information received according to priority guidelines and other ~~DHS~~ OKDHS-adopted criteria.

(37) **"Safety evaluation"** means a ~~DHS~~ an OKDHS evaluation of a child's situation, using a structured, evidence-based tool to determine if the child is subject to safety threats.

(38) **"Safety threat"** means the threat of serious harm due to child abuse or neglect occurring in the present or in the very near future that without another person's intervention, a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death.

(39) **"Sexual abuse"** means any sexual activity, including sexual propositioning between the PRFC and child or any sexual acts committed or permitted by the PRFC including, but not limited to:

(A) rape;

(B) sodomy;

(C) incest; and

(D) lewd or indecent acts or proposals to a child. ■ 10

(40) **"Sexual exploitation"** means any person 18 years of age and older or a PRFC:

(A) allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law, ~~by any person 18 years of age and older or by a PRFC;~~ or

(B) allowing, permitting, ~~or~~ encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of the child in those acts ~~by a PRFC.~~

(41) **"Sibling"** means a biologically or legally-related brother or sister of a child. This includes an individual who satisfies at least one of the conditions in (A) and (B) with respect to a child. The individual:

(A) is considered by state law to be a child's sibling; or

(B) would be considered a sibling under state law, except for a termination or other disruption of parental rights, such as a parent(s)' death.

(42) **"Trafficking in persons"** means sex trafficking or severe forms of trafficking in persons.

(A) "Sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

(B) "Severe forms of trafficking in persons" means:

(1)(i) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act is not 18 years of age; or

(2)(ii) the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(43) **"Youth"** means a child 13 through 17 years of age.

(c) **Substantiation of child abuse and neglect allegations.** Specific guidelines in conjunction with the definitions in this Section are utilized in substantiating abuse or neglect. ■ 1

## **INSTRUCTIONS TO STAFF 340:75-3-120**

**Revised 9-15-202-1-22**

1. **Definitions throughout Subchapter 3.** Oklahoma Human Services (OKDHS) definitions throughout Subchapter 3 not defined in the Oklahoma Children's Code are defined in Instructions to Staff (ITS) # 2 through # 50 of this Section. Certain definitions contain related examples and substantiation protocol.
2. (a) **Abandonment.** "Abandonment" is broadly defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) and Oklahoma Administrative Code (OAC) 340:75-3-120; however, subparagraphs B and C of the statute as they relate to a significant parental relationship and failure to respond to notice of deprived proceedings do not necessarily apply when making safety decisions. For the purpose of accepting or screening-out abandonment reports for assessment or investigation, a child is considered abandoned when a person responsible for the child's (PRFC) health, safety, or welfare:
  - (1) leaves the child with no stated or implied plans to resume care or custody and the caregiver is unwilling or unable to provide appropriate care for the child;
  - (2) refuses to have the child in his or her care and custody and does not make appropriate arrangements for the child's care; or
  - (3) arranges substitute care for the child; and
    - (A) fails to return for the child;
    - (B) efforts to locate the PRFC fail, and more than 24 hours pass; and
    - (C) the caregiver is unwilling or unable to continue to provide appropriate care for the child.
- (b) **Abandonment examples.** Examples of abandonment may include, but are not limited to, when the:
  - (1) PRFC refuses to pick the child up from a temporary caretaker, inpatient facility, detention facility, or school after a request to do so and does not make appropriate alternative plans for the child's care;
  - (2) PRFC does not return to pick the child up from an appropriate, temporary caregiver and the caregiver is no longer able or willing to care for the child;
  - (3) child is homeless and without access to a parent or legal guardian to meet the child's need for shelter, clothing, food, or medical or behavioral health care; or
  - (4) child is found home alone for an extended period of time with no access to an adult and the PRFC cannot be contacted or located.
- (c) **Substantiating abandonment.**

- (1) When determining a finding ~~of the~~ regarding an abandonment allegation ~~regarding abandonment~~, the child welfare (CW) specialist considers:
- (A) the PRFC's explanation of the incident to determine the reason the PRFC did not resume custody of the child;
  - (B) if mitigating circumstances exist, such as a teen parent who is in OKDHS custody and who is unable, but not unwilling, to provide care for the child;
  - (C) the duration and chronicity of the PRFC's absence;
  - (D) the efforts by the caregiver to locate the PRFC; and
  - (E) the impact of the PRFC's absence on the child.
- (2) In general, to substantiate abandonment, one of the factors in (A) through (E) of this paragraph is present. The PRFC:
- (A) leaves the child and there are no stated or implied plans by the PRFC to resume care or custody of the child;
  - (B) arranges for a substitute caregiver and the substitute caregiver is:
    - (i) unwilling or unable to continue to care for the child. The child left with an appropriate caregiver is not abandoned unless the caregiver refuses to continue to provide care; and
    - (ii) unable to locate the PRFC and more than 24 hours have passed;
  - (C) fails to make an effort to retrieve the child from the substitute caregiver and more than 24 hours have passed;
  - (D) refuses to provide or assume care of the child or make appropriate alternative arrangements for the child; or
  - (E) is unable to provide care for the child and will not be able to assume care of the child.
3. (a) Abuse examples. Examples of abuse may include, but are not limited to, circumstances when the child is:
- (1) shocked by a cattle prod or any type of electronic device, such as a stun gun or taser;
  - (2) shot with a BB gun or air gun as a form of discipline;
  - (3) choked, or otherwise has an airway restriction as a form of discipline, intimidation, or punishment;
  - (4) diagnosed with abusive head trauma or shaken baby syndrome;
  - (5) intentionally burned as a form of discipline, intimidation, or punishment;
- or
- (6) held under water or submerged in water as a form of punishment.
- (b) Substantiating abuse.
- (1) When determining a finding regarding the an abuse allegation ~~of abuse~~, the CW specialist considers the:
- (A) impact on the child, related to the child's age, physical condition, and vulnerability to the abuse;
  - (B) PRFC's pattern of abusive behavior; and
  - (C) duration of the abuse.
- (2) Prior to substantiating abuse not otherwise defined in the definitions of OAC 340:75-3-120 and 340:75-3-120 ~~Instructions to Staff (ITS)~~ under harm or

threatened harm, physical abuse, sexual abuse, or failure to protect, one of the factors in (A) or (B) of this paragraph are present.

(A) The PRFC's actions resulted in the child's death, physical or emotional harm, sexual abuse, or sexual exploitation.

(B) The child is harmed or threatened with substantial harm as the result of the PRFC's behavior.

4. **Accepting the report for assessment or investigation.** "Accepting the report for assessment or investigation" means the screening process was completed; the report meets the definition of abuse, neglect, or both and is within the scope of child protective services (CPS); and will be assigned.
5. **Acute traumatic events.** "Acute traumatic events" means events that are usually short-lived but result in overwhelming feelings of terror, horror, or helplessness.
6. **Administrative investigation.** "Administrative investigation" means an internal investigation ~~initiated by the advocate general~~ initiates at the request of the OKDHS Director or the Chief of Staff upon receipt of a notice of the death or near death of a child known to Child Welfare Services (CWS) or in other circumstances.
7. **Advocate general.** "Advocate general" means the administrative head of the OKDHS Office of Client Advocacy.
8. **Child safety meeting (CSM).** A CSM is a collaborative decision-making process for determining the child's needs and the best intervention strategy to meet the child's safety needs.
9. **Chronic traumatic events.** "Chronic traumatic events" means events that occur repeatedly over an extended period of time and result in a range of responses, including intense feelings of fear, loss of trust in others, decreased sense of personal safety, guilt, or shame.
10. **Complex trauma.** "Complex trauma" describes a child's exposure to multiple or prolonged traumatic events and the impact of this exposure on the child's development. Complex trauma occurs within the primary caregiving system and involves the chronic neglect, physical or sexual abuse or sexual exploitation of a child, or psychological maltreatment, as well as domestic violence that begins in early childhood.
11. (a) **Confinement.** "Confinement" means unreasonable restriction of the child's mobility, actions, or physical functioning, such as tying the child to a fixed or heavy object, tying limbs together, or forcing the child to remain in a closely confined area that restricts the child's physical movement.  
(b) **Confinement examples.** Confinement may include, but is not limited to:
  - (1) locking a child in a closet or small room;
  - (2) tying one or more of the child's limbs to a bed, chair, or other object except as authorized by a licensed physician;
  - (3) tying a child's hands behind his or her back;
  - (4) putting the child in a cage or its likeness, such as a crib with a cover over the top;
  - (5) forcing the child to live in a small space without proper ventilation, lighting, or access to facilities; or

(6) locking the child in inappropriate living quarters, such as a basement, laundry room, storm shelter, or bathroom for extended periods of time to prevent the child from interacting or participating in daily activities with other members of the family.

**(c) Substantiating confinement.**

(1) When determining a finding regarding the a confinement allegation of ~~confinement~~, the CW specialist considers the:

- (A) child's age and vulnerability;
- (B) child's development and functioning;
- (C) child's behavioral health;
- (D) child's physical limitations;
- (E) child's length of confinement; and
- (F) PRFC's intent behind the child's confinement.

(2) In general, to substantiate confinement, one of the factors in (A) through (D) of this paragraph is present.

- (A) The PRFC restrains the child's mobility, physical function, or limbs ~~are restrained by the PRFC's~~ purposeful action over a period of time.
- (B) The child is forced to remain in a confined area through physical force or threat of harm of a physical nature for an unreasonable amount of time.
- (C) The child is unable to remove himself or herself from confinement due to physical abilities, development, or other limitations.
- (D) The PRFC restricts the child's limbs through bondage, taping, or other means and the child is unable to remove himself or herself from the confinement. Age-appropriate swaddling of an infant is not considered confinement.

**12. Contributing factors to abuse or neglect.** "Contributing factors to abuse or neglect" means any action or omission that negatively affects the PRFC's ability to demonstrate protective capacities, either directly or indirectly, as it relates to a child's safety and well-being.

**13. Deprived child.**

(1) The CW specialist consults with the CPS Program Unit and/or the district director, or both on how to proceed when confronted with a case where a child is deprived necessary medical treatment to sustain life for the sole reason that the parent, legal guardian, or person with custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, per the tenets and practice of a recognized church or religious denomination.

(2) Evidence of material, educational, or cultural disadvantage as compared to other children is not sufficient to prove that a child is deprived.

**14.(a) Domestic violence.** "Domestic violence" means assaultive or coercive behaviors, such as physical, sexual, and psychological attacks; economic coercion against another adult, emancipated minor, or minor child who is family, a household member, domestic partner, or who is or was in a dating relationship.

(b) Domestic violence examples. Domestic violence may include, but is not limited to:

(1) physical assault upon a spouse, domestic partner, girlfriend, boyfriend, or other adult residing in the same household including, but not limited to:

- (A) punching;
- (B) striking with objects;
- (C) hitting;
- (D) slapping;
- (E) choking;
- (F) kicking;
- (G) burning;
- (H) cutting; or
- (I) biting;

(2) harm or threatened harm to self or others as a means of control over an individual;

(3) imposed isolation from family, friends, and loved ones;

(4) not allowing access to family finances;

(5) verbally abusive or demeaning comments especially in the presence of others; or

(6) forced participation in sexual acts.

(c) Substantiating domestic violence.

(1) When determining a finding regarding the allegation of exposure to domestic violence, the CW specialist considers the:

- (A) child's age and vulnerability;
- (B) severity of the incident; and
- (C) protective capacities of the ~~non-offending~~ non-perpetrating PRFC, when applicable.

(2) In general, to substantiate domestic violence there:

(A) is an incident that results in physical harm to a member of the household;

(B) is assaultive or coercive behavior between adults when the child is in the environment that includes, but is not limited to:

- (i) threats that involve the child;
- (ii) choking the victim;
- (iii) physical injury; or
- (iv) the presence of weapons; or

(C) are safety threats to the child that pose:

- (i) imminent or impending physical danger;
- (ii) significant neglect; or
- (iii) significant emotional harm as a result of the child listening to or witnessing the assaultive behavior.

15. (a) Educational neglect. "Educational neglect" means the child fails to attend school due to the PRFC's pattern of failure to ensure the child is enrolled in, allowed to attend, assisted in attending school, or provided other means of education. Truancy or homeschooling does not necessarily constitute educational neglect.

(b) Educational neglect examples. Educational neglect may include, but is not limited to, when the PRFC:

(1) fails to enroll the child in school and does not provide an alternative means of education; or

(2) allows the child to be frequently tardy or absent from school with no just cause.

(c) Substantiating educational neglect.

(1) When determining a finding regarding the an educational neglect allegation ~~of educational neglect~~, the CW specialist considers whether the child is receiving an alternative means of education and when the child is not, considers the:

(A) PRFC's efforts to get the child to school or to provide other means of education;

(B) duration of the child's absence from school;

(C) reasoning for the child not being enrolled in school; and

(D) plan provided by the child, when appropriate, and the PRFC for the child's continued education.

(2) In general, to substantiate educational neglect one of the factors in (A) through (C) of this paragraph is present and all efforts were exhausted by the appropriate school district.

(A) The child fails to attend school or receive other means of education due to the PRFC's pattern of behavior.

(B) The PRFC does not access materials necessary for the child's education, such as homeschooling text books, Internet access, or tutors.

(C) The school district exhausts all available means to compel the child's attendance and the PRFC fails to respond.

16.(a) Failure to protect examples. Failure to protect may include, but is not limited to, the PRFC:

(1) leaving the child in the care of an inappropriate caretaker or with a caretaker with whom the PRFC does not have a long-standing relationship and abuse or neglect is perpetrated on the child by the caretaker;

(2) allowing the child to be left with a caretaker who previously harmed a child, the PRFC had knowledge of the previous abuse or neglect, and an incident of abuse or neglect is perpetrated on the child by the caretaker;

(3) remaining in an environment with the child where the child is or was abused or neglected by another caretaker; or

(4) permitting abuse or neglect to occur at the hands of another PRFC or caretaker.

(b) Substantiating failure to protect.

(1) When determining a finding regarding the a failure to protect allegation ~~of failure to protect~~, the CW specialist considers:

(A) the PRFC's knowledge of a potential safety threat to the child;

(B) the PRFC's overall attitude regarding the child's need for safety; and

(C) whether a reasonable adult could have predicted harm to the child in the situation. A reasonable person acts sensibly without serious delay and takes proper, but not excessive precautions.

(2) In general, to substantiate failure to protect either or both of the factors in (A) and (B) of this paragraph are present.

- (A) The PRFC had knowledge of or could have predicted the child would be:
    - (i) in an unsafe situation; or
    - (ii) with an individual who has a history of abusive, neglectful, or violent behavior.
  - (B) The PRFC fails to show attention, care, or consideration for the child's need for safety.
- (3) When someone other than the PRFC is the perpetrator of the abuse or neglect to the child and:
- (A) the PRFC has protected, and will continue to protect the child, a ruled-out finding is made unless the CW specialist determines services are recommended to continue to ensure the child's protection; or
  - (B) it appears the abuse or neglect was attributable to the willful failure on the part of the PRFC to protect the child, a finding of substantiated failure to protect is appropriate.
17. Fetal alcohol spectrum disorder. "Fetal alcohol spectrum disorder" (FASD) means an overarching disorder that encompasses a range of possible diagnoses, including fetal alcohol syndrome (FAS), partial fetal alcohol syndrome, alcohol-related birth defects (ARBDs), alcohol-related neurodevelopmental disorder (ARND), and neurobehavioral disorder associated with prenatal alcohol exposure.
18. General counsel. "General counsel" means the administrative head of OKDHS Legal Services.
19. Impending danger. "Impending danger" means the presence of a threatening family condition that is:
- (1) specific and observable;
  - (2) out-of-control;
  - (3) certain to happen in the next several days; and
  - (4) likely to have a severe effect on a child. Refer to OAC 340:75-3-300 ITS.
20. Inadequate or dangerous shelter. "Inadequate or dangerous shelter" means the child is living in hazardous living conditions that could have a severe impact on the child's health or safety.
- (1) Examples of inadequate or dangerous shelter may include, but are not limited to, a:
    - (A) young child living in a home with animal feces scattered throughout the home on a chronic basis;
    - (B) child living in a home with no working utilities and the child has no access to heat or cooling methods when warranted for extreme weather conditions;
    - (C) child living outdoors; or
    - (D) child living in a tent with no access to adequate protection from extreme heat or cold.
  - (2) Substantiating inadequate or dangerous shelter.
    - (A) When determining a finding regarding the allegation of inadequate or dangerous shelter, the CW specialist considers the:
      - (i) child's developmental functioning;

- (ii) impact on the child related to the child's age, physical condition, and vulnerability to the conditions;
- (iii) duration and frequency of the conditions;
- (iv) resources available to the PRFC to improve the conditions; and
- (v) factor that poverty alone does not constitute neglect.

(B) In general, to substantiate inadequate or dangerous shelter, the factors in (i) or (ii) of this paragraph are present.

(i) The PRFC does not provide basic shelter necessary for the child's health or safety due to the PRFC's behavior or refusal to use available resources.

(ii) The child is harmed or threatened with substantial harm as the result of the conditions.

21. Infant born alive. "Infant born alive" means an infant who is born alive at any stage of fetal development as certified by a physician.

22. (a) Lack of supervision. "Lack of supervision" means the PRFC failed to provide the child with the supervision required to keep the child:

- (1) from hurting himself, herself, or others; or
- (2) away from dangerous objects or situations.

(b) Examples of lack of supervision include, but are not limited to:

- (1) leaving a young child alone without appropriate supervision or access to an appropriate caretaker;
- (2) leaving a young child without appropriate supervision in a potentially dangerous or hazardous environment;
- (3) not providing appropriate supervision to a young, disabled, or vulnerable child around roadways, bodies of water, or inside vehicles;
- (4) allowing a young or vulnerable child to freely play at a park, playground, school, or other location without an appropriate caretaker present to supervise; or
- (5) leaving a child with physical, mental, or emotional disabilities without appropriate access to an adult or responsible caretaker who is able to tend to the child's needs.

(c) Substantiating lack of supervision.

(1) When determining a finding regarding the a lack of supervision allegation of ~~lack of supervision~~, the CW specialist considers the:

- (A) child's developmental functioning;
- (B) environment where the child is left unsupervised;
- (C) duration and frequency the child is left without supervision;
- (D) child's accessibility to a capable adult;
- (E) PRFC's expectations of the child while child is alone;
- (F) resources available to the PRFC to improve the supervision plan; and
- (G) the PRFC's ability to make child safety-related decisions.

(2) In general, to substantiate lack of supervision the factors in (A) and (B) of this paragraph are present.

(A) The child is placed in situations beyond the child's developmental ability to manage without competent supervision, guidance, or protection.

- (B) The circumstances of the supervision plan are such that a reasonable person is expected to foresee that the child is placed in danger of physical harm, sexual abuse, or sexual exploitation.
- 23.(a) Medical child abuse. "Medical child abuse" formerly referred to as Munchausen Syndrome by Proxy or fabricated or induced illness, means a type of child abuse where the PRFC fabricates or induces medical conditions in the child.
- (b) Medical child abuse examples. Medical child abuse examples may include, but are not limited to, the PRFC:
- (1) intentionally making the child ill through the administration of medications, chemicals, or harmful substances;
  - (2) reporting the child has a life-threatening condition without supporting medical evidence and continually seeking treatment for the condition to gain attention or sympathy;
  - (3) taking the child to multiple doctors ~~and/or~~, specialists, or both;
  - (4) demanding the child be placed on medications or receive treatment for an undiagnosed condition; or
  - (5) administering a multitude of over-the-counter medications to the child who is not officially diagnosed by a medical professional for a specific condition.
- (c) Substantiating fabricated or induced illness. When determining a finding regarding the a fabricated or induced illness ~~allegation of fabricated or induced illness~~, the CW specialist obtains:
- (1) all of the child's medical records;
  - (2) an opinion from a certified child abuse pediatrician stating the PRFC fabricated or induced the child's illness; and
  - (3) documentation from the PRFC's health provider, when available.
- 24.(a) Medical neglect. "Medical neglect" means withholding medical treatment or prescription medication of any type and the withholding may result in significant harm to the child. Withholding medical treatment or prescriptions is medical neglect when the:
- (1) medical treatment is, in the opinion of a physician, required to safeguard the child from serious medical risk;
  - (2) child's medical condition is an emergency or a life-threatening condition, constituting such a serious risk to the child's health, safety, or welfare that a reasonable person would procure medical attention immediately and the PRFC does not do so;
  - (3) withholding, refusal to administer, or supply prescribed medications results in the child needing emergency medical services or results in the child suffering for a period of time that would have been prevented with proper administration of prescribed medications; or
  - (4) needed medical treatment is withheld from an infant born alive at any stage of fetal development or is withheld from an infant born with disabilities if the infant's life-threatening condition will most likely improve or be corrected with medical treatment, per OAC 340:75-3-430.

**(b) Examples of medical neglect include, but are not limited to, the PRFC failing to:**

- (1) seek medical attention for the child with an injury, especially when the injury is to the child's head, face, ears, neck, stomach, or genitals;**
- (2) administer prescribed medications resulting in the child's prolonged suffering or needing emergency medical care;**
- (3) seek medical care for the child's prolonged illness; or**
- (4) consistently follow through with the physician's recommendations regarding the child's treatment and care.**

**(c) Substantiating medical neglect. In general, to substantiate medical neglect, the CW specialist consults with medical personnel and determines if any factor in (1), ~~(2)~~, or through (3) of this subsection is present.**

- (1) The child does not receive medical, dental, or behavioral health care for a documented serious health problem that, when untreated, may place the child in imminent or impending jeopardy of limitation, incapacitation, or death.**
- (2) The PRFC demonstrates a consistent refusal to obtain and follow through with specified medical care, including the administration and supply of prescribed medications.**
- (3) The child's health is significantly endangered by the PRFC's failure to obtain medical treatment or provide prescribed medications for the child.**

**25. (a) Mental injury – emotional abuse or neglect. "Mental injury - emotional abuse or neglect" means an injury to the child's intellectual or psychological capacity:**

- (1) as evidenced by observable and substantial impairment to the child's ability to function within the child's normal range of performance and behavior with regard to the child's culture; and**
- (2) resulting from a pattern of cruel or unconscionable acts upon the child, or statements made or permitted by the PRFC to be made to the child or within the child's environment.**

**(b) Mental injury – emotional abuse or neglect examples. Mental injury – emotional abuse or neglect examples include, but are not limited to:**

- (1) acts or repeated statements directed at the child that degrade or belittle the child;**
- (2) exposure to repeated violent or intimidating acts or statements that may or may not be directed at the child but have a harmful effect on the child;**
- (3) the PRFC ignoring or being psychologically unavailable to the child, such as acts ranging from lack of sustained attention to a barrier of silence;**
- (4) the PRFC fails to provide minimum levels of nurturing and shows little or no attachment to the child;**
- (5) the PRFC regularly ignores, rejects, or curses the child when the child requires the PRFC's assistance;**
- (6) the PRFC confuses the child's gender identity by forcing the child to dress in clothing inappropriate for the child's gender to shame the child;**
- (7) the PRFC exposes the child to maladaptive and harmful influences by:**
  - (A) engaging in serious criminal activity with the child's full awareness;**
  - (B) allowing or encouraging the child to engage in illegal acts; or**

- (C) exposing or forcing the child to participate in child trafficking;
  - (8) consistently refusing to permit any professional to assess the child's serious emotional or behavioral problems that may also be considered medical neglect; or
  - (9) the child witnessing chronic or highly volatile domestic violence.
- (c) In general, to substantiate mental injury – emotional abuse or neglect, one or more of the factors in (1) through (3) of this subsection is present.
- (1) The PRFC demonstrates a pattern of emotionally abusive or neglectful behavior causing the child extreme unpleasant mental reactions, such as terror, horror, grief, shame, or humiliation.
  - (2) A professional opinion from someone with skills in diagnosing behavioral health concerns indicates the PRFC's behavior causes the child's observable and substantial impairment of his or her intellectual or emotional functioning.
  - (3) There is cumulative documentation of the child's impairment and the PRFC's behaviors, such as:
    - (A) statements by the child and at least one competent witness;
    - (B) the PRFC's description of a typical family interaction;
    - (C) the PRFC's description of an attitude toward the child;
    - (D) collaborative evidence provided by collateral sources familiar with the family; or
    - (E) the CW specialist's observation and assessment of the child's behavior and demeanor.
  - (4) The CW specialist considers the child's age and maturity level when making a finding regarding mental injury – emotional abuse or neglect.
- 26. Medically fragile child.** "Medically fragile child" means a child who exhibits either an acute life-threatening or a chronic, progressive health condition that puts the child at high risk for poor health or death. Rapid health deterioration occurs without continuous care and treatment. This includes, but is not limited to:
- (1) Human Immunodeficiency Virus (HIV)/Acquired Immunodeficiency Syndrome (AIDS);
  - (2) Type 1 diabetes;
  - (3) kidney dialysis; or
  - (4) incurable advanced stage/end of life diseases.
- 27. Minor Injury.** "Minor injury" means belt marks, slap marks, or bruises on the child's buttocks, legs, shoulders, or arms that are not extensive, deep, or located on multiple sites as a result of discipline by the PRFC to a child 6 years of age and older. An example is fingertip bruising to the child's arm.
- 28. (a) Neglect.**
- (1) The child is neglected when the PRFC deliberately, or through exceptional lack of attention to the child's basic needs, causes the child to suffer emotionally or physically.
  - (2) Neglect involves either a chronic, long-standing problem that impacts several aspects of a child's life or is so severe that it is life threatening.

(3) Per 10A O.S. § 1-1-105, a child is not determined to be abused or neglected for the sole reason the parent, legal guardian, or person having custody or control of a child in good faith selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child. The court is not prevented from immediately assuming custody of a child, pursuant to the Oklahoma Children's Code, and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

(b) Neglect examples. Examples of neglect include, but are not limited to:

- (1) dangerously, inadequate supervision for the child;
- (2) extremely, hazardous living conditions for the child;
- (3) the child's malnutrition;
- (4) the PRFC's failure to obtain or provide critically essential medical, dental, or behavioral health care for the child;
- (5) mental injury to the child;
- (6) seriously inadequate physical care of the child;
- (7) the child's exposure to sexual acts or age-inappropriate material;
- (8) the PRFC's failure to protect;
- (9) the PRFC's abandonment of the child; or
- (10) threat of harm to the child.

(c) Substantiating neglect.

(1) When determining a finding regarding the a neglect allegation of neglect, the CW specialist considers the:

- (A) impact on the child related to the child's age, physical condition, and vulnerability to the conditions;
- (B) PRFC's pattern of neglectful behavior;
- (C) neglect's duration of the neglect;
- (D) resources available to the PRFC to assist the PRFC enhance his or her protective capacities; and
- (E) factor that poverty alone does not constitute neglect unless the PRFC does not access known and readily available resources to prevent serious emotional or physical harm to the child.

(2) In general, to substantiate neglect the factors in (A) and (B) of this paragraph are present.

(A) The PRFC does not provide basic food, clothing, or shelter, supervision, or essential medical, dental, or behavioral health care necessary for the child's health or safety due to the PRFC's behaviors or refusal to use available resources.

(B) The child is harmed or threatened with substantial harm as the result of the PRFC's behavior.

(3) Neglect does not mean a child who engages in independent activities, except if the PRFC willfully disregards any harm or threatened harm to the child, given the child's level of maturity, physical condition, or mental abilities. Such independent activities include, but are not limited to:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining at home unattended for a reasonable amount of time;

(E) remaining in a vehicle if the temperature inside the vehicle is not, or will not, become dangerously hot or cold, except under the conditions described in 47 O.S. § 11-1119; or

(F) engaging in similar activities alone or with other children.

29. Neonatal abstinence syndrome. "Neonatal abstinence syndrome" (NAS), also referred to as "substance-affected newborn" or commonly known as withdrawal is caused by in utero exposure to legal or illegal drugs or substances.

30. Substantiating physical abuse.

(1) When determining a finding regarding the a physical abuse allegation of physical abuse, the CW specialist:

(A) determines if the child sustained a physical injury;

(B) assesses the injury's severity;

(C) obtains the PRFC's and the child's explanations for the injury; and

(D) determines the PRFC's intent when physically disciplining the child.

(2) In general, to substantiate physical abuse the factors in (A) and (B) of this paragraph are present.

(A) The child sustains a physical injury inflicted by the PRFC resulting in damage to the child's body from punching, beating, kicking, biting, burning, extreme physical punishment, or otherwise harming the child.

(B) The injury is inflicted non-accidentally by the PRFC.

(3) When the PRFC does not admit to inflicting the child's injury, one or more pieces of evidence in (A) through (C) of this paragraph are present.

(A) In the CW specialist's judgment, the injury is clearly consistent with abuse based on credible evidence gathered regarding the injury's cause.

(B) It is the opinion of medical personnel that the injury is consistent with abuse.

(C) A witness statement corroborates the child's statement of how the injury was inflicted.

(4) Physical abuse may be substantiated without the presence of an injury when the PRFC admits to an action that in the CW specialist's judgment, or based upon corroborating witness statements, constitutes the potential for substantial injury to the child, such as, the:

(A) child was hit in the face or head or received extreme physical punishment inconsistent with the explanation; or

(B) alleged action was inappropriate for the child's age or development.

31. Physical injury. "Physical injury" means temporary or permanent damage or impairment to the child's body caused by the PRFC.

32. Present danger. "Present danger" means an immediate, significant, and clearly observable family condition presently occurring and currently endangering or threatening to endanger a child. Refer to OAC 340:75-3-300 ITS.

- 33. Prevention- and intervention-related services.** "Prevention- and intervention-related services" means services referred or recommended to the family by OKDHS to change a behavior or condition that caused or resulted in a safety threat or a substantiated report of abuse or neglect.
- 34. Protective capacity.** "Protective capacity" means personal and caregiving behavioral, cognitive, and emotional characteristics specifically and directly associated with the ability to protect a child from harm or threatened harm. Caregiver protective capacities are specific qualities that are observable and believed to be a part of the way a PRFC acts, thinks, and feels that make him or her protective of a child. The PRFC's:
- (1) diminished protective capacity is a reason CPS intervenes in a family; or
  - (2) sufficiently-enhanced protective capacity is a reason CPS no longer needs to be involved with a family.
- 35. Risk factors.** "Risk factors" means family behaviors and conditions that suggest the PRFC is likely to abuse or neglect the child in the future. Refer to OAC 340:75-3-210 ITS for the six key questions related to risk factors addressed during the assessment of child safety.
- 36. Safe.** "Safe" means a child is in an environment where there is no identifiable safety threat or a PRFC has sufficient protective capacities to prevent the child from being harmed.
- 37. Safety threshold.** "Safety threshold" means the process that evaluates or measures family behavior to determine when impending danger exists.
- (1) An evaluation or measurement of the safety threshold occurs when family conditions are:
    - (A) specific and observable;
    - (B) out-of-control and without intervention, abuse or neglect could occur in the near future;
    - (C) severe and imminent; and
    - (D) threatening to the safety of a vulnerable child due to the PRFC's behaviors.
  - (2) The threshold is compromised when family behaviors, conditions, or situations manifest in such a way that child safety is threatened.
  - (3) The safety threshold encompasses only those family conditions that are out of the control of a parent, caregiver, or others within the family. This includes situations where the parent, caregiver, or others are able to control conditions, behaviors, or situations, but are unwilling or refuse to exert control.
- 38. Serious abuse or neglect.** "Serious abuse or neglect" means:
- (1) abuse or neglect resulting in significant injury, such as burns, fractures, abusive head trauma, genital injuries, extensive deep bruising on multiple sites of the body, or internal injuries;
  - (2) abuse or neglect resulting in life-threatening consequences, such as failure-to-thrive conditions, lack of supervision resulting in significant injury or danger, extreme malnutrition or dehydration, medical neglect involving a life-threatening illness, or life-threatening conditions caused by the PRFC's

impaired abilities resulting from substance use or abuse, mental illness, or medical or emotional conditions; and  
(3) sexual abuse or sexual exploitation.

**39. Substantiating sexual abuse.**

(1) When determining a finding regarding the allegation of sexual abuse, the CW specialist considers the:

- (A) child's statements, behaviors, or both that indicate sexual abuse;
- (B) child's ability to describe or demonstrate the specific sexual acts in the context of the sexual abuse. The CW specialist needs to consider the child's age and developmental level when assessing the child's ability to describe or demonstrate context;
- (C) witness statements consistent with the child's statement, behavior, or both; and
- (D) written transmissions or other forms of technological communication ~~through the use of technology~~ that facilitate, encourage, offer, or solicit sexual conduct with a minor child by a PRFC.

(2) The three aspects explored regarding the child's statements and behaviors are listed in (A) through (C) of this paragraph.

(A) The child's ability to describe, verbally or behaviorally, the:

- (i) sexual behavior by exhibiting sexual knowledge beyond what is expected for the child's developmental stage;
- (ii) description of the sexual behavior from a child's viewpoint;
- (iii) explicit accounts of sex acts; and
- (iv) explicit accounts of proposals for sexual behavior through ~~the use of technology~~ technological communication.

(B) Generally, a child may be able to provide three or more details about the context of the victimization, such as:

- (i) where it happened;
- (ii) when it happened;
- (iii) what the perpetrator said to obtain the child's involvement;
- (iv) where other family members were at the time of the victimization;
- (v) what the child was wearing;
- (vi) what pieces of the child's clothing were removed;
- (vii) what the perpetrator was wearing;
- (viii) what pieces of the perpetrator's clothing were removed;
- (ix) the child's emotional state during the abuse, such as being scared, feeling bad, or being confused;
- (x) if the perpetrator said anything about the child or perpetrator telling or not telling;
- (xi) if the child told anyone; and
- (xii) the reactions of the persons the child told.

(C) The child's statements and behaviors are explored regarding the child's affect or emotional reaction when recounting sexual abuse. Common emotional reactions to disclosure may include, but are not limited to:

- (i) reluctance to disclose;

- (ii) embarrassment;
- (iii) anger;
- (iv) anxiety;
- (v) disgust;
- (vi) sexual arousal; or
- (vii) fear.

(3) Medical evidence of sexual abuse is seldom found in sexual abuse cases. The probability of medical findings is greater with younger children, acute abuse, and the availability of a skilled examiner. Most medical evidence is described as consistent with or suggestive of sexual abuse rather than conclusive.

(4) Complete confession by the perpetrator during the CW specialist's investigation rarely occurs. The perpetrator may:

- (i) (A) admit to some, but not all, sexual abuse described by the child victim. Typically, the admission is to lesser acts; or
- (ii) (B) indirectly admit to the sexual abuse without directly stating that he or she sexually abused the child. For example, the perpetrator may say the child is not lying but does not admit his or her guilt.

(5) In general to substantiate sexual abuse, one or more of the factors in (A) through (D) of this paragraph are present. The factors include, the:

- (A) child's statements and behaviors include the ability to describe or demonstrate specific sexual acts and the ability to describe the context of the sexual abuse;
- (B) medical evidence;
- (C) confession of the perpetrator, whether:
  - (i) a complete confession;
  - (ii) a partial confession; or
  - (iii) an indirect admission; or
- (D) written transmissions or other forms of communication technology that facilitate, encourage, offer, or solicit sexual conduct with the child by a PRFC.

(6) A specific perpetrator does not need to be identified to substantiate sexual abuse.

(7) A child's recantation of a previous account of sexual abuse is not uncommon and does not automatically indicate the previous findings were inaccurate.

(8) Sexual behaviors that cause concern may include, but are not limited to:

- (A) extreme preoccupation with masturbation;
- (B) sexual interaction with peers that is not within normal developmental limits;
- (C) sexual aggression toward younger or more naive children;
- (D) sexually accosting older children or adults;
- (E) seductive behavior in younger children; and
- (F) demonstration of sexual behavior, knowledge, or statements about sexual activity that indicate the child may have been exposed to adult sexuality or actual sexual molestation. Sexual knowledge beyond what

would be expected for a child's normal developmental stage may signal, in young children, possible sexual abuse, repeated exposure to adult sexuality, exposure to sexually explicit materials, or pornography.

**40. Substantiating sexual exploitation.**

(1) When determining a finding regarding the a sexual exploitation allegation ~~of sexual exploitation~~, the CW specialist considers the:

- (A) child's statements, behaviors, or both that indicate sexual exploitation;
- (B) child's ability to describe or demonstrate the specific lewd, obscene, or pornographic material in the context of the sexual exploitation; and
- (C) witness statements consistent with the child's statements, behaviors, or acts.

(2) The aspects explored regarding the child's statements and behaviors are listed in (A) through (D) of this paragraph.

(A) The CW specialist considers the child's ability to describe verbally or behaviorally the:

- (i) sexual behaviors or acts the child was encouraged, permitted, or allowed to engage in;
- (ii) explicit accounts, from the child's perspective, of lewd, obscene, or pornographic material the child was either encouraged, permitted, or allowed to engage in; and
- (iii) PRFC's knowledge of or involvement in the sexual exploitation, or both.

(B) Generally, a child may be able to provide three or more details about the context of the victimization, such as:

- (i) where it happened;
- (ii) when it happened;
- (iii) what the perpetrator said to obtain the child's involvement;
- (iv) where other family members were at the time of the victimization;
- (v) what the child was wearing;
- (vi) what pieces of the child's clothing were removed;
- (vii) what the perpetrator was wearing;
- (viii) what the perpetrator said to the child about the lewd, obscene, or pornographic material being produced and its intended use;
- (ix) the child's emotional state during the abuse, such as being scared, feeling bad, or being confused;
- (x) if the perpetrator said anything about the child or perpetrator telling or not telling;
- (xi) if the child told anyone; and
- (xii) the reactions of the persons the child told.

(C) The child's statements and behaviors are explored regarding the child's affect or emotional reaction when recounting the sexual exploitation. Common emotional reactions to disclosure may include, but are not limited to:

- (i) reluctance to disclose;
- (ii) embarrassment;

- (iii) anger;
- (iv) anxiety;
- (v) disgust;
- (vi) sexual arousal;
- (vii) fear; or
- (viii) lack of acknowledgement of victimization.

(D) Sexual exploitation may be perpetrated without the child's knowledge; therefore, the child may not be able to provide any of the information or demonstrate behaviors listed in (B)(i) through (xii) and (C)(i) through (viii) of this paragraph. In those instances, the CW specialist must rely on the evidence of sexual exploitation listed in (4) of this subsection.

(3) Medical evidence of sexual abuse is seldom found in sexual exploitation cases. The probability of medical findings is greater with younger children, acute abuse, and the availability of a skilled examiner. Most medical evidence is described as being consistent with sexual abuse rather than conclusive.

(4) Evidence of sexual exploitation may exist in the form of:

- (A) text messages;
- (B) recorded videos/DVDs;
- (C) an Internet or World Wide Web address, including any blog site or personal web address;
- (D) still photographs;
- (E) audio or sound messages;
- (F) cell phone or camcorder recordings; or
- (G) other materials stored, made, or transmitted from an electrical device for the purposes of sexual stimulation.

(5) Complete confession by the perpetrator during the CW specialist's investigation rarely occurs. The perpetrator may:

- (A) admit to some, but not all sexual exploitation described by the child victim. Typically, the admission is to lesser acts; or
- (B) indirectly admit to the sexual exploitation without directly stating that he or she sexually exploited the child. For example, the perpetrator says the child is not lying but does not admit his or her guilt.

(6) In general, to substantiate sexual exploitation one or more of the factors in (A) through (D) of this paragraph are present. The factors include the:

- (A) child's statement and behavior that includes his or her ability to describe or demonstrate specific lewd, obscene, pornographic, or sexual acts, and the context of the sexual exploitation;
- (B) medical evidence;
- (C) confession of the perpetrator, whether a:
  - (i) complete confession;
  - (ii) partial confession; or
  - (iii) indirect admission; or
- (D) evidence:
  - (i) of lewd, obscene, or pornographic photographs, films, or depictions of the child; or

(ii) the child was allowed, permitted, or encouraged to engage in prostitution by the PRFC.

(7) Identification of the specific perpetrator is not necessary to substantiate sexual exploitation. The substantiation of the allegations is not dependent upon the child's awareness of the specific acts.

41. Substance use or abuse. "Substance use or abuse" means the misuse of any drug, alcohol, or other substance for mood-altering purposes including the illegal drug use of illegal drugs; the prescription drug abuse of prescription drugs for purposes other than those for which the drug is indicated; prescription drug use or in a manner or in quantities other than directed that incapacitates or severely limits the PRFC's ability to perform minimal basic care for the child and results in serious neglect of the child; or creates the risk of serious physical danger or significant emotional consequences to the child. Refer to ITS # 28 of this Section.
42. Substance-affected infant. "Substance-affected infant" means the an infant was born experiencing withdrawal symptoms as a result of prenatal drug exposure or FASD as determined by the direct health care provider.
43. Substance-exposed infant. "Substance-exposed infant" means the a newborn who tests positive for alcohol or a controlled dangerous substance. When the PRFC's substance use or abuse results in an infant born substance-exposed, the PRFC's home is evaluated to determine if the infant can receive the proper nurturing, nutrition, and attention to hygiene necessary for the infant to thrive.
44. Sufficiency of information. "Sufficiency of information" is means the necessary information gathered from individuals with direct involvement and knowledge of the alleged incident in question and the family's overall functioning, with supporting documentation and information from professionals. Sufficiency of information allows a CW specialist to make a safety determination for a child.
45. Third-party perpetrator. "Third-party perpetrator" means a perpetrator of child abuse or neglect other than the PRFC.
46. (a) Threat of harm. "Threat of harm" means situations, behaviors, emotions, motives, perceptions, or capacities that can produce substantial child maltreatment.
- (b) Threat of harm examples. Threat of harm includes, but is not limited to, the PRFC or caretaker:
- (1) knowingly leaving the child in a potentially dangerous situation or with inappropriate caretakers;
  - (2) operating a vehicle while under the influence of drugs or alcohol with the child in the vehicle;
  - (3) having direct care of the child while under the influence of illegal drugs, prescription drugs, or alcohol that impairs the PRFC or caretaker's ability to care for the child;
  - (4) abusing or neglecting a child when another child is present in the home; or
  - (5) knowingly allowing a person who is required to register as a sex offender, due to an offense toward a child or violent or habitual offenses, to live in the

home, babysit, or have frequent access to, or contact with the child, per the Sex Offender Registration Act, 57 O.S. §§ 581 et seq.

(c) In general, to substantiate threat of harm, the factors in (1) or (2) of this paragraph are present.

(1) The PRFC or caretaker intended to act, acted, omitted to act, or knew about conditions that placed the child in imminent or impending danger and exhibited diminished protective capacities.

(2) The intentions, actions, omission, or conditions could have resulted in substantial physical injury, sexual abuse, or neglect of the child.

47. Trauma definition. "Trauma" means:

(1) a serious injury or shock to the body from violence or an accident;

(2) an event that causes lasting emotional or psychological damage or distress;  
or

(3) an event or situation that threatens the victim's or a loved one's life or health ~~of the victim or a loved one~~ and overwhelms the person's ability to cope.

48. Truancy definition. "Truancy" means a child refuses to attend school despite the parent's or PRFC's efforts to encourage and assist in school attendance or the parent's or the PRFC's inability or unwillingness to encourage and assist in school attendance.

49. Unsafe definition. "Unsafe" means an identifiable safety threat to a child is present within his or her environment and the caregiver's protective capacities are insufficient to prevent the child from being harmed and requires outside intervention.

50. Vulnerable child definition. "Vulnerable child" means the child who is unable to protect himself or herself due to his or her age, physical or emotional development, mobility, size, dependence, or inability to communicate needs.

(1) The child 5 years of age and younger is considered to have a high level of vulnerability as is the child with issues, such as disabilities, past victimization, or hazardous surroundings.

(2) Any child is susceptible to vulnerability, when a parent or caregiver with an unpredictable or threatening behavioral pattern has access to the child is ~~within access of a parent or caregiver with an unpredictable or threatening behavioral pattern~~ and a protecting parent or caregiver is not available.

## PART 2. INVESTIGATIVE PROTOCOLS

**340:75-3-200. General protocols for Child Protective Services (CPS) assessments and investigations** ■ 4, 6 through 13, 15, & 17 through 19, & 25

Revised 9-15-15-1-22

(a) **Assessment and investigation process.** The CPS safety assessment and investigation process allows Child Welfare Services (CWS) to have direct involvement with a family to identify problems and provide services, either directly or indirectly, that protect children and assist the family. Per Section 1-2-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-105), ~~the Oklahoma Department of Human Services (DHS)~~ (OKDHS) responds promptly to a report of child abuse or neglect by initiating an

assessment of the family or an investigation of the report per ~~DHS~~ OKDHS priority guidelines. The process includes gathering information:

- (1) regarding the reported allegations and family dynamics that jeopardize the child's safety; and
- (2) to assess the person responsible for the child's health, safety, or welfare (PRFC) protective capacities. ■ 1

(b) **Assessment and investigation protocols.** Protocols provide:

- (1) continuity when addressing allegations of abuse or neglect;
- (2) a family functioning assessment of possible safety threats; and
- (3) continuity related to CWS contact with the family. ■ 2 & 3

(c) **Multidisciplinary investigation protocol.** Investigations regarding physical abuse, serious neglect, and sexual abuse are conducted utilizing a multidisciplinary approach when possible per the Oklahoma Administrative Code 340:75-3-440. Each child sexual abuse, physical abuse, or neglect investigation and child victim interviews are conducted by appropriate personnel using the protocols and procedures per 10A O.S. § 1-9-102. The investigation may proceed without full participation of all personnel:

- (1) when trained personnel are not available timely and, in the judgment of the law enforcement officer or ~~DHS~~ OKDHS, there is reasonable cause to believe a delay in investigation or interview of the child victim could place the child in jeopardy of harm or threatened harm to the child's health or welfare; and
- (2) for only as long as reasonable danger to the child exists. ■ 16

(d) **Assessment and investigation requirements.**

(1) Per 10A O.S. § 1-2-105, the assessment or investigation requires:

(A) a visit to the child's home, unless:

- (i) there is reason to believe an extreme safety risk to the child or ~~DHS~~ OKDHS employee exists; or
- (ii) it appears the referral was made in bad faith;

(B) an interview with, and examination of, the child;

(C) the visit to be conducted at any reasonable time and at any place including, but not limited to, the child's school; and

(D) when a child is interviewed at school that ~~DHS~~ OKDHS notify the PRFC that the child was interviewed at school.

(2) The assessment or investigation may include:

(A) an interview with, and examination of, any child in the home; and

(B) interviews with the child's parents or any other PRFC. ■ 5

(e) **Disclosure of specific complaint or allegation to PRFC.** At the initial contact with the PRFC, who is the subject of the investigation pursuant to the Oklahoma Children's Code, ~~DHS~~ OKDHS advises the person of the specific complaint or allegation made against the PRFC per 10A O.S. § 1-2-106.

(f) **Description of the investigation process provided to the PRFC.** Per 10A O.S. § 1-2-106, ~~DHS~~ OKDHS provides a brief and easily understood written description of the investigation process. The notice includes a statement that:

- (1) ~~DHS~~ OKDHS is undertaking the investigation pursuant to Oklahoma Children's Code requirements in response to a report of child abuse or neglect;

- (2) the identity of the person who reported the incident of abuse or neglect is confidential and may not be known to ~~DHS~~ OKDHS since the report may have been made anonymously;
- (3) the investigation is required by law to be conducted enabling ~~DHS~~ OKDHS to identify incidents of abuse or neglect in order to provide social services to the family in need of protective or preventive services;
- (4) upon completion of the investigation, ~~DHS~~ OKDHS sends the PRFC a letter stating:
  - (A) ~~DHS~~ OKDHS found insufficient evidence of abuse or neglect; or
  - (B) there appears to be probable cause to suspect the existence of child abuse or neglect in the judgment of ~~DHS~~ OKDHS;
- (5) the procedures ~~DHS~~ OKDHS uses to conduct an investigation of alleged child abuse or neglect, include:
  - (A) a description of the circumstances that would cause ~~DHS~~ OKDHS to seek judicial approval to remove the child from the home; and
  - (B) an explanation that the law requires ~~DHS~~ OKDHS to refer all reports of child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;
- (6) the procedures to follow when:
  - (A) there is a complaint regarding ~~DHS~~ OKDHS actions; or
  - (B) requesting a review of the findings OKDHS made by ~~DHS~~ during or at the conclusion of an investigation;
- (7) the PRFC has a right to review unsealed records filed with the court in the event an action is filed;
- (8) the PRFC has a right to seek legal counsel;
- (9) the PRFC may obtain copies of the statutory and regulatory provisions governing child abuse and neglect and an explanation of how to obtain copies of the provisions;
- (10) the PRFC may request ~~visitation~~ family time and an explanation of the process to use to acquire ~~visitation~~ family time with the child when the child is removed from the home; and
- (11) failure to appear for court proceedings may result in the termination of the person's parental rights to the child.

(g) **Assessment or investigation report forwarded to district attorney (DA).** ~~DHS~~ OKDHS, per 10A O.S. § 1-2-102, forwards the completed assessment or investigation report and findings to any ~~district attorney's~~ DA office that may have jurisdiction to file a petition per 10A O.S. § 1-4-902. ■ 21

(h) **Referral to law enforcement.**

- (1) Per 10A O.S. 1-2-102, ~~DHS~~ OKDHS immediately makes a referral, either verbally or in writing, to the appropriate local law enforcement agency for the purpose of conducting a possible criminal investigation when, upon receipt of a report alleging abuse, neglect, or during the assessment or investigation, ~~DHS~~ OKDHS determines the alleged:
  - (A) perpetrator is someone other than a PRFC; and
  - (B) abuse or neglect of the child does not appear attributable to failure on the part of a PRFC to provide protection for the child. ■ 20

(2) ~~DHS OKDHS~~, after making the referral to law enforcement, is not responsible for further investigation unless:

(A) ~~DHS OKDHS~~ has reason to believe the alleged perpetrator is a parent of another child, not the subject of the criminal investigation, or is otherwise a PRFC of another child;

(B) notice is received from a law enforcement agency that has determined the alleged perpetrator is a parent or PRFC of ~~or a PRFC~~ of another child, not the subject of the criminal investigation; or

(C) the appropriate law enforcement agency requests ~~DHS OKDHS~~, in writing, to participate in the investigation. When funds and personnel are available, as determined by the ~~DHS OKDHS~~ Director or designee, ~~DHS OKDHS~~ may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse. ■ 24

(i) **Court order for access to or examination of child.** The assessment or investigation may include a medical, psychological, or psychiatric examination of any child in the home. When the PRFC refuses to cooperate with arranging an examination, or when admission to the home, school, or any place where the child may be located cannot be obtained, ~~DHS OKDHS~~ may request the DA ~~make application~~ apply, per 10A O.S. § 1-2-105 for a court order to compel access or examination of the child. The court may order that a child be transported to a court-approved location for the interview or examination and designate an appropriate person or persons to transport the child. The persons may include, but are not limited to: a relative of the child, a PRFC, law enforcement, an OKDHS employee, or an Office of Juvenile Affairs (OJA) employee if the child is in OJA custody. The court will consider safety protocols based on the child's gender. It is the PRFC's responsibility to secure medical examinations that may be necessary due to abuse or neglect of the child by a third party. ■ 14

(j) **Obtaining the child's medical records.** As necessary in the course of conducting an assessment or investigation, ~~DHS OKDHS~~ may request and obtain, without a court order, copies of a child's current and prior medical records ~~of a child~~ including, but not limited to, hospital, medical, and dental records. The physician-patient privilege does not constitute grounds for failure to produce the requested records, per 10A O.S. § 1-2-105.

(k) **Requests for the child or PRFC's behavioral health records relevant to the assessment or investigation.** Per 10A O.S. §§ 1-2-105 and 1-6-103, the assessment or investigation may include an inquiry into the possibility the child or PRFC has a history of mental illness. When the PRFC denies ~~DHS OKDHS~~ access to their personal behavioral health records or treatment plans requested by ~~DHS OKDHS~~ that may be relevant to the alleged abuse or neglect, ~~DHS OKDHS~~ requests the DA ~~make application~~ apply for a court order allowing ~~DHS OKDHS~~ access to the records pursuant to terms and conditions prescribed by the court. ■ 14

(l) **Failure to report child abuse or neglect.** Per 10A O.S. § 1-2-101, any person who knowingly and willfully fails to promptly report suspected child abuse or neglect, or who interferes with the prompt reporting of suspected child abuse or neglect, may be reported to local law enforcement for criminal investigation, and upon conviction, is guilty of a misdemeanor. ■ 22

(m) **False reports of abuse or neglect made knowingly and willfully.** Any person who knowingly and willfully makes a false report of child abuse or neglect, per 10A O.S. § 1-

2-101, or who makes a report the person knows lacks factual foundation, may be reported to local law enforcement for criminal investigation, and upon conviction is guilty of a misdemeanor. ■ 23

(n) **Restraining order prohibiting child's removal from Oklahoma.** Per 10A O.S. § 1-2-105, when ~~DHS~~ OKDHS has reason to believe the PRFC may remove the child from Oklahoma before the investigation is completed, ~~DHS~~ OKDHS may request the DA file an application for a temporary restraining order in any district court in Oklahoma without regard to continuing jurisdiction of the child. Upon cause shown, the court may enter a temporary restraining order prohibiting the parent or other person from removing the child from Oklahoma pending completion of the assessment or investigation.

## **INSTRUCTIONS TO STAFF 340:75-3-200**

**Revised 4-1-212-1-22**

- 1. Assessment or investigation purpose.** During the assessment or investigation process the child welfare (CW) specialist gathers information from family members or other persons. The purpose of the assessment or investigation is to:
  - (1) explain the CW function;
  - (2) explain the allegations to the family;
  - (3) gather information for decision making;
  - (4) determine if abuse or neglect occurred;
  - (5) assess the behaviors of the person responsible for the child's (PRFC) health, safety, or welfare to determine protective capacities;
  - (6) assess the presence or absence of safety threats to each child in the home;
  - (7) determine what safety response is indicated;
  - (8) reduce trauma to each child;
  - (9) intervene for child safety; and
  - (10) identify appropriate services for the family.
- 2. Safety precautions when conducting an assessment or investigation.** Safety precautions during an assessment or investigation include, but are not limited to:
  - (1) taking any threat by a parent seriously; and
  - (2) seeking the assistance of law enforcement when the CW specialist is at risk of harm, such as when:
    - (A) there is a history of violence;
    - (B) firearms or other weapons are present or reported to be present;
    - (C) illegal substance manufacturing or distribution is reported to be present. Refer to Oklahoma Administrative Code (OAC) 340:75-3-450; or
    - (D) the family's geographic location is isolated or dangerous.
- 3. Initiation and safety determination requirement when three or more reports of abuse or neglect were assigned.** When three or more reports are pending concerning the same child and family, the CW supervisor reviews each report and all information known about the family with the CW specialist.
  - (1) The most recent report is assigned as an investigation.

- (2) The CW supervisor sets specific time requirements for completion of the safety determination and within no more than five-calendar days from receipt of the most recent report for completion of the investigation.
4. Assessing background information.
- (1) When there is prior CW history involving the adults and children listed in the current or pending abuse or neglect reports ~~of abuse or neglect~~, the history is reviewed prior to initiating the assessment or investigation unless:
- (A) an urgent response is required and there is no time to review prior to initiating;
  - (B) it is outside of business hours and not possible to access the paper file or KIDS. In these instances, the history is reviewed as soon as possible; or
  - (C) the current report is case connected to the appropriate case in KIDS or connected to a new case without history on the adults and children listed in the referral. The CW history is reviewed as soon as possible following assignment, but no more than 48-hours from initiation.
- (2) Background information includes if the child and family are:
- (A) known to Oklahoma Human Services (OKDHS) and Child Protective Services (CPS);
  - (B) currently receiving OKDHS or CW services;
  - (C) known to another state's CPS; or
  - (D) known to law enforcement due to reports of violent crimes, domestic violence, substance use or abuse, or sexual abuse.
- (3) The CW specialist contacts the CPS Programs Unit immediately for additional information when a CPS alert is found during a search.
- (4) When there is an open CW case regarding the family, the assigned CW specialist obtains the name of any current OKDHS employee involved with the family. Contact is initiated with any assigned OKDHS employee, when possible, prior to the first contact with the child and family to determine the case status and to request the case records.
- (5) When it is determined the family had CPS involvement in another state, the CW specialist contacts CPS in the other state, and:
- (A) makes a verbal request for records;
  - (B) follows up with a written request for the records;
  - (C) scans the records into the KK case ~~File-Cabinet~~ document management system upon receipt. When volume makes scanning difficult, the CW specialist documents in KIDS Contacts that the records are located in the case paper file. The contact contains a brief summary of the information and a contact number for the jurisdiction with the records; and
  - (D) ensures the new report is properly case connected to the history in KIDS.
- (6) The CW specialist contacts law enforcement and obtains police records when the report alleges domestic violence, substance use or abuse, or sexual abuse.
5. Assessment and investigation requirements.

- (1) The report assigned as an investigation has a response time of five-calendar days or less.**
- (2) When a report is assigned as an assessment, the first contact may be with the ~~non-offending~~ non-perpetrating parent to arrange a time to see the child within the time requirements.**
- (3) Priority 1 investigations require:**
  - (A) two diligent, face-to-face attempts to contact the child victim on the date the report is received; and**
  - (B) a minimum of one diligent, face-to-face attempt to contact the child victim every calendar day thereafter until:**
    - (i) the child victim is located, interviewed, and his or her safety is established;**
    - (ii) a decision is made that diligent efforts were made and failed to locate the child and family, per OAC 340:75-3-200 Instructions to Staff (ITS) # 20; or**
    - (iii) the CW specialist staffs the efforts to locate the child victim or the special case circumstances with the CW supervisor, and a decision is made regarding the continued face-to-face efforts to locate the alleged child victim based on the current information. The decision to modify the requirement is documented in the KIDS Victim Interview screen.**
- (4) Priority 2 assessments or investigations require:**
  - (A) two diligent, face-to-face attempts to contact the child victim on or before the response time indicated in KIDS; and**
  - (B) a minimum of one diligent, face-to-face attempt to contact the child victim every subsequent business day until:**
    - (i) the child victim is located, interviewed, and his or her safety is established;**
    - (ii) a decision is made that diligent efforts were made and failed to locate the child and family, per OAC 340:75-3-200 ITS # 20; or**
    - (iii) the CW specialist staffs the efforts to locate the child victim or the special case circumstances with the CW supervisor, and a decision is made regarding the continued face-to-face efforts to locate the alleged child victim based on the current information. The decision to modify the requirement is documented in the KIDS Victim Interview screen.**
- (5) After three-calendar days of unsuccessful diligent attempts to make face-to-face contact with the alleged child victim, a contact letter may be mailed to the PRFC. When there is no response to the contact letter after 10-calendar days, refer to OAC 340:75-3-200 ITS # 20.**
- (6) Efforts to locate a child victim other than actual face-to-face attempts are documented in the Child Victim screen in KIDS – Type of Contact - Other with detailed information regarding efforts made to locate the alleged abuse or neglect victim. Examples of documented efforts to locate the child victim include contact with law enforcement, the child's school or child care, or the local utility company to locate the family. After the CW specialist staffs the efforts to locate the child victim or the special case circumstances with the CW supervisor, a decision is made regarding the continued face-to-face**

efforts to locate the alleged child victim based on the current information. The decision to modify the requirement is documented in the KIDS Victim Interview screen.

(7) Assessment and investigation reports submitted to the district attorney (DA) are completed, per OAC 340:75-3-510.

(8) Child victim and PRFC interviews are documented in KIDS within five-calendar days from the interview date.

6. Safeguarding reporter identity. To prevent unintended disclosure of the reporting party, the CW specialist leaves all KIDS- or OKDHS-generated documents regarding the reporter in a secure location.

7. Gathering information during the assessment or investigation. The primary methods, used in gathering information during the assessment or investigation, are: listed in (1) through (3) of this Instruction.

(1) ~~interviewing~~ Interviewing. The interview is a face-to-face contact between the CW specialist and a person who has or may have information pertinent to assessing safety.

(A) Face-to-face interviews with the alleged victim(s), other children in the home, PRFC(s), and the alleged perpetrator are required, unless an exception is granted per ITS # 17 of this Instruction.

(B) Interviews with other witnesses or collaterals can be conducted in person or by phone.

(C) Interviews are conducted in private, and sufficient time is allowed to elicit information and make observations relative to assessing safety;

(2) ~~observing~~ Observing. Observing the physical and cultural environment is critical in assessing safety. The CW specialist observes the:

(A) home's physical setting;

(B) sleeping arrangements for all family members;

(C) degree to which the house is safe and healthy for a child;

(D) physical appearance of the PRFC(s) and child, including hygiene, affect, and injuries; and

(E) differences in culture and lifestyle that may affect the response of the family; ~~and.~~

(3) ~~documentary evidence~~ Documentary evidence. Documentary evidence provides factual information in assessing safety. Documents may include, but are not limited to:

(A) written records of interviews and observations;

(B) medical reports;

(C) psychological ~~and/or~~ or behavioral health evaluations or records;

(D) law enforcement reports, call logs, or both;

(E) Medical Examiner's Report of Autopsy;

(F) photographs;

(G) public information from sources, such as the Oklahoma State Courts Network, the On Demand Court Records (ODCR), or the Oklahoma Department of Corrections;

(H) victim protective orders;

(I) non-directory education records;

(J) court record documents, such as guardianship or custody orders and related documents, available from the court file or provided by a witness; and or

(K) Developmental Disabilities Services (DDS) records.

**8. Contact protocol. Talking to the alleged child victim is the most critical step in the safety determination process.**

(1) When necessary, discussion with and examination of the alleged child victim may be conducted at any reasonable time and at any place including, but not limited to, the child's school, per Section 1-2-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-105). It may be necessary to talk to the child in a neutral setting first due to the nature of the allegations.

(2) The child's age, developmental level, and emotional state guide the CW specialist's approach to gathering information. It may be necessary with some children to have an older sibling or another significant person present to obtain information. The use of collaterals is critical in assessing the safety and well-being when the child is not able to verbalize his or her circumstances.

(3) All children must be observed. Even non-verbal children can provide information when observed. An attempt must be made to talk to every verbal child victim. Although a very young child may not have extensive verbal skills, the child may provide critical statements or phrases that assist in the assessment.

(4) Family members are observed interacting together.

**9. Initial contact with the PRFC or family in the home. The assessment or investigation includes a visit to the child's home, per 10A O.S. § 1-2-105, unless there is reason to believe there is an extreme safety risk to the child or CW specialist.**

(1) Contact with the family is made by an unannounced home visit.

(2) The CW specialist introduces himself or herself and explains the reason for the visit in a non-accusatory, courteous manner and shows the family a an OKDHS employee identification card.

(3) The specific reported allegations are explained to the PRFC, per 10A O.S. § 1-2-106.

(4) The PRFC is given OKDHS Publication No. 87-02, Questions and Answers for Parents about Child Protective Services.

(5) During the assessment or investigation, the CW specialist gathers, per OAC 340:75-1-26 ITS and OAC 340:75-19-8, demographic information for each family member that includes the person's:

(A) accurate date of birth;

(B) full legal name, including any other names or nicknames used;

(C) Social Security number;

(D) race and ethnicity; and

(E) when the child may be an Indian child, the place of the parent(s)' birth.

(6) The CW specialist does not enter the home when an adult is not present. The CW specialist does not interview children found at home alone, but leaves contact information for the PRFC. When young children are found

alone, the CW specialist immediately contacts law enforcement. An investigation rather than an assessment is conducted when young children are left alone.

(7) The CW specialist asks to observe or interview each child and family member in the home.

(8) When hostility, anger, or other defensive reactions are encountered, the CW specialist assures the family their concerns about the process will be addressed, although the assessment or investigation must be conducted.

(9) When ordered out of the home, the CW specialist leaves immediately.

10. **Attempted home visit.** When a home visit is attempted during the assessment or investigation, the alleged child victim has not been located, and the family is not home, the CW specialist and supervisor determine what diligent efforts are needed to determine child safety. Diligent efforts to locate the child are made per ITS # 5 of this Instruction prior to leaving a contact letter when the family is not home.

11. **Phone contact at PRFC's place of employment.** When the CW specialist makes attempts to contact the family, is unsuccessful, and determines the PRFC or perpetrator is employed, the CW specialist:

(1) may attempt to phone the PRFC or perpetrator at work;

(2) when calling the PRFC's or perpetrator's place of employment, identifies himself or herself by name only. No information about the nature of the call is discussed with the employer; and

(3) when the employer does not allow personal calls or the PRFC or perpetrator is unavailable, leaves a message giving only the CW specialist's name and phone number. No letter is sent to the employer.

12. **Visual inspection of the child.**

(1) The child's and either the PRFC's or caregiver's permission is obtained prior to the visual inspection of the child.

(2) Regardless of whether an injury is alleged, the CW specialist conducts a full-body inspection by asking the PRFC or caregiver to remove or rearrange the child's clothing, including diapers, for any child younger than 12 months of age.

(3) When one child is alleged to have serious or non-accidental injuries, the CW specialist checks the siblings for injuries.

(4) When non-accidental injuries are alleged or injuries are observed that may not be consistent with normal childhood play or development to any child in the home, the CW specialist, after obtaining permission, conducts:

(A) a full-body inspection of any child 5 years of age and younger that requires removal or rearrangement of the child's clothing, including diapers; and

(B) an informal inspection of the child 6 years of age and older, rather than a full-body inspection by rearranging the child's clothing.

(i) When injuries or alleged injuries are not observable without a full-body inspection, an examination is conducted by medical personnel.

(ii) The child is observed by the CW specialist in the presence of the PRFC unless the observation is made while in a setting outside of the home, such as child care or school.

(I) When the child is verbal, the reason for the visual inspection is explained to the child.

(II) Visual inspections are conducted in a manner that is sensitive to the child's feelings, privacy needs, and gender.

(III) When the child requires assistance undressing due to age, physical condition, developmental level, or emotional discomfort, the CW specialist asks the PRFC or caregiver to remove or lift the child's clothing allowing the child to be observed.

(IV) When the injuries on a child of any age indicate the need for a medical examination, or the child's age limits the CW specialist's ability to conduct an inspection of alleged injuries, the child is taken for a medical examination. Refer to OAC 340:75-3-200 ITS # 14.

(5) When a PRFC or caregiver refuses to permit the CW specialist to visually inspect the child victim or siblings, the CW specialist consults with the CW supervisor regarding whether to submit a request to the DA for a court order, per 10A O.S. § 1-2-105(B)(2).

(6) When a child refuses to permit the CW specialist to conduct an inspection, the CW specialist consults with the CW supervisor regarding arrangements for a medical examination.

**13. Photographing child victim injuries.** When injuries appear indicative of child abuse or neglect, the CW specialist:

(1) arranges for the child to be photographed. The CW specialist may take the photographs or, when possible, law enforcement or medical professionals take the photographs;

(2) maintains conventional photographs in the child's paper case record;

(3) does not enhance or alter and stores the digital photographs; and

(4) makes any photograph available to law enforcement and the DA.

**14. Medical or behavioral health examination.** Information gathered during the assessment or investigation may indicate a need for medical, psychological, or psychiatric examination or treatment of any child in the PRFC's home, per 10A O.S. § 1-2-105(B)(2). Subsequent inquiry may reveal that the child or PRFC has a history of behavioral health issues.

(1) As necessary in conducting an assessment or investigation, the CW specialist requests and obtains, without a court order, copies of the child's prior medical records including, but not limited to, hospital, medical, and dental records, per 10A O.S. § 1-2-105(C)(2), and copies of the child's prior behavioral health records including, but not limited to, hospital, psychological, and treatment records, per 10A O.S. § 1-6-103(B)(3).

(2) When a PRFC does not allow CW access to behavioral health records or treatment plans, the CW specialist consults with the CW supervisor regarding whether to submit a request to the DA for a court order, per 10A O.S. § 1-2-105(B)(3).

(3) When a medical examination is required, the CW specialist assists the PRFC with the arrangements, accompanies the PRFC and child to the medical examination, and remains available during the examination for consultation with

the physician or appropriate licensed medical professional. A medical examination or consultation with a physician or appropriate licensed medical professional is required for:

- (A) all injuries on a child 3 years of age and younger that are unexplained or implausibly explained, and do not appear to be caused by normal play or toddling;
  - (B) a child of any age with unexplained or implausibly explained bruises, burns, or fractures;
  - (C) all of a non-ambulatory child's bruises, burns, or fractures;
  - (D) all referrals of sexual abuse in non-verbal children whose behavior mimics adult sexual behavior, such as simulated intercourse or oral stimulation of another's genitals;
  - (E) all sexual abuse cases in which oral or genital skin-to-skin contact is alleged or suspected;
  - (F) all cases of:
    - (i) sexually transmitted infections in a prepubescent child;
    - (ii) malnutrition and failure-to-thrive;
    - (iii) medical neglect; or
    - (iv) fabricated or induced illness, formerly referred to as Munchausen by Proxy Syndrome;
  - (G) the child's observable injury, when the caregiver admits responsibility for the injury, and medical documentation is necessary to determine if there are internal or old injuries;
  - (H) a child who exhibits a need for an immediate psychological or psychiatric evaluation; or
  - (I) all bruises or injuries to a child with a diagnosed or perceived disability, who is unable to communicate effectively about the alleged abuse or neglect, or both.
- (4) When the PRFC refuses to secure needed medical, psychological, or psychiatric attention for the child, the CW specialist evaluates the level of risk to the child and determines whether a request is made to the DA for a court order application to secure needed services.
- (5) Although a second medical opinion is suggested for all serious child abuse and neglect, it is particularly crucial in cases of head trauma or fractures in a child 5 years of age and younger. Consultation with the CPS Programs Unit is available.
- (6) Reimbursement to the vendor for the child abuse examination or treatment is made, per OAC 340:75-13-64. The CW specialist, not the medical provider, determines if other resources are available to the child and advises the hospital, physician, or appropriate licensed medical professional regarding procedures for payment, per OAC 340:75-13-64.
- (7) Exceptions to medical examination procedures are approved by the CW supervisor as soon as possible after the child victim is observed. The exception is documented in the Summary/Recommendation Section of Form 04KI003E, Report to District Attorney, and good cause is shown for the modification.

## **15. Professional consultation.**

- (1) The CW specialist consults, as needed, with those who have additional expertise in child abuse or neglect, or in areas related to the family's service needs.**
- (2) When a child victim, his or her sibling, or any child living in the home:**
  - (A) has a diagnosed or perceived developmental disability, a complex medical condition, or both;**
  - (B) is unable to communicate effectively about abuse, neglect, or other safety threat; or**
  - (C) is vulnerable due to an inability to communicate effectively, the:**
    - (i) CW specialist may seek consultation with DDS that includes resource coordination, medical consultation, or medical evaluation related to developmental disabilities when needed, per 10A O.S. § 1-2-105;**
    - (ii) consultation process with DDS is for information and referral services for the family and is in addition to the requirement that the CW specialist contact all medical, educational, and therapeutic providers for the child; and**
    - (iii) assigned area DDS intake staff provides information about needed, recommended, and available services within the community, based upon the child's reported needs. When an emergency exists and the child is placed in OKDHS custody, the CW specialist follows procedure for identification, application, and needs assessment, per OAC 340:75-8-36.**
- (3) When a child has a perceived or diagnosed developmental disability or physical disability or medical condition, CW staff must:**
  - (A) consult with a Child Welfare Services (CWS) nurse on all cases with allegations of "Failure to Obtain Medical Attention," "Fabricated or Induced Illness," "Failure to Thrive," or with any injury characteristic of "Failure to Thrive," "Malnutrition," or "Medical Condition Untreated";**
  - (B) consult with a certified child abuse pediatrician on all cases with allegations of "Fabricated or Induced Illness," also described as child abuse in a medical setting and formerly referred to as Munchhausen Syndrome by Proxy;**
  - (C) consult by phone or face-to-face with the child's primary care physician, specialist, and any other treating medical provider when a child is reported to have ongoing medical conditions; and**
  - (D) obtain all medical records necessary to adequately assess the child's safety with a perceived or diagnosed developmental or physical disability or any ongoing medical condition. CW staff must ensure the obtained medical records provide information regarding the diagnosis and compliance with treatment and recommendations. When a child has a diagnosed genetic disorder, medical records must be obtained from all treating physicians.**

**(4) The CW supervisor ensures compliance with the protocols in this paragraph on all investigations or assessments with an element of medical concern.**

**(5) The CWS nurses are available to assist CW staff with:**

- (A) understanding medical concerns;**
- (B) medication reviews;**
- (C) medical chart reviews;**
- (D) parent and foster parent education on medical issues;**
- (E) home visits; and**
- (F) hospital visits.**

**16. Access to a registered sex offender.**

**(1) When a PRFC<sub>1</sub> or adult whom the child has access to, is required to register as a sex offender, per the Sex Offender Registration Act, 57 O.S. § 584, and the report is accepted for CPS investigation, the CW specialist:**

- (A) verifies if the person is a required registrant and when so, the offense that led to the registry requirement;**
- (B) obtains the state and county of jurisdiction for the offense;**
- (C) obtains the applicable criminal records, such as, but not limited to the;**
  - (i) arrest affidavit pertaining to the offense;**
  - (ii) law enforcement report pertaining to the offense; and**
  - (iii) victim's order of protection pertaining to the offense;**
- (D) checks law enforcement records of each state or county the registrant inhabited, when known, for any offenses similar in nature, such as, but not limited to:**
  - (i) sexual crimes against a child, adult, or animal;**
  - (ii) indecent exposure; and**
  - (iii) voyeurism;**
- (E) obtains the victim's name, age, and relationship at the time of the offense;**
- (F) requests out-of-state CW records pertaining to the offense, when applicable;**
- (G) obtains any recommendations or treatment records pertaining to any services the registrant participated in specifically related to the offense; and**
- (H) interviews the current probation or parole officer and treatment provider, when available, as collaterals.**

**(2) When a child is living in the home with, or has continued access to, a registered sex offender, the child's vulnerability is considerably increased.**

**(3) The PRFC who is a registered sex offender due to an offense toward a child, is viewed as unable to provide basic care or supervision of the child.**

**17. Modifying assessment or investigation protocol. Assessment and investigation protocol is followed unless good cause exists for modification.**

**(1) Modifications:**

- (A) to the required home visit are not authorized unless it is determined contact in the home jeopardizes the safety of the CW specialist or child;**

(B) are approved by the CW supervisor;  
(C) are not authorized when there are two or more reports regarding the same child and family in the preceding 12 months; and

(D) may include:

(i) altering the required order in which interviews are conducted, when:

(I) emergency conditions exist that require immediate action to protect the child. Protocol is reinstated after the child is safe;

(II) the emotional atmosphere is volatile, for example, people are emotionally immobilized or violent; or

(III) key persons are not available;

(ii) mandatory approval from the district director is required to omit required interviews with individuals other than the child victim or alleged perpetrator when:

(I) all allegations are obviously and unquestionably false;

(II) it is determined the report was made in bad faith;

(III) the report was a result of an absolute misperception of the child's condition or circumstances; or

(IV) information collected in the six key questions of the Form 04KI030E, Assessment of Child Safety, from the child victim and alleged perpetrator, does not indicate a possible safety threat;

(iii) substituting required face-to-face interviews with phone contact or virtual conference when the interviewee's circumstance or location makes the person unavailable for a face-to-face interview; or

(iv) authorizing joint interviews for required separate interviews when a separate interview is declined by the person interviewed. The CW specialist is aware that information gathered during joint interviewing may not accurately provide representation of the incident or the family's actual functioning.

(2) When a modification is authorized, at a minimum, the six key questions on Form 04KI030E are completed from interviews with each child victim and the alleged perpetrator with a determination of no safety threats.

(3) A modification and the reason for the modification to the investigation or assessment protocol is documented in the Summary/Recommendation Section of Form 04KI003E for investigations and in Section IV, Safety Decisions, Comments/Summary, Form 04KI030E for assessments.

(4) Any modification request not listed above requires consultation with and approval from the CPS Programs Unit.

18. Documenting the assessment or investigation. The CW specialist documents in KIDS:

(1) each attempted contact with the alleged child victim or other family member;

(2) when the alleged child victim is deceased by selecting Face-to-Face (NA) Child Death from the drop-down menu, ~~Face-to-Face (NA) Child Death, when the alleged child victim is deceased~~; and

(3) all completed contacts in the appropriate screens.

**19. Refusal to cooperate or respond to protocol.**

**(1) When a family refuses to cooperate or respond in an assessment or investigation by:**

**(A) refusing to be interviewed;**

**(B) refusing to allow access to the child for observation and interview; or**

**(C) removing the child from Oklahoma before the assessment or investigation is completed, the CW specialist:**

**(i) evaluates the available information and determines the most appropriate action; and**

**(ii) when the child is in present danger:**

**(I) immediately contacts law enforcement for assistance in interviewing and observing the child; and**

**(II) when the PRFC continues to refuse to allow access to the child and law enforcement declines to place the child in protective custody, immediately documents information obtained from collaterals or witnesses and submits the information on Form 04CP008E, Child Protective Services Affidavit or Form 04KI003E, requesting that the DA make application for a court order to allow access to the child.**

**(2) When the PRFC denies access to his or her behavioral and/or or mental health records or treatment plans that may relate to abuse or neglect, the CW specialist requests that the DA file an application for a court order to obtain the records.**

**(3) When the CW specialist believes a PRFC or other person may remove the child from Oklahoma before the assessment or investigation is completed, the CW specialist requests that the DA file an application for a temporary restraining order prohibiting the PRFC or other person from removing the child from the state pending completion of the assessment or investigation.**

**(4) When a relative or non-relative caretaker is granted guardianship or power of attorney and a referral was is assigned regarding the parent, legal guardian, or custodian alleging abuse, neglect, or both, a complete and thorough safety evaluation of the child referenced in the assigned report is required. The safety evaluation is conducted in the home of the guardian or person having power of attorney. Each PRFC, including parents, is included in the safety assessment.**

**20. Unable to locate protocol. When the CW specialist is unable to locate the child and family, diligent efforts are made to locate the family through additional sources of information.**

**(1) When all known collaterals were are contacted and the alleged victim is not located, the CW specialist:**

**(A) contacts the reporter and advises of the difficulty in locating the family and asks the reporter for additional sources of information;**

**(B) contacts the public school associated with the given address and requests any transfer or locating information for each child in the household who is eligible to receive education services or known to the public school system; and**

(C) makes another computer inquiry to determine if the family is receiving OKDHS services.

(i) When the family is receiving OKDHS services, the CW specialist contacts the assigned worker to determine if there is a new address for the family or other information to assist in locating the family.

(ii) The assessment or investigation does not affect eligibility for other OKDHS services.

(2) When a new address is provided and the assessment or investigation was not closed, the assessment or investigation protocols continue regardless of when the completion time was exceeded.

(3) When the report indicates the child's safety is, or will be, at risk and it appears the family relocated and the address is unknown, a statewide ~~and/or~~ or nationwide protective service alert may be initiated by contacting the CPS Programs Unit. Refer to OAC 340:75-3-300 ITS # 11.

(A) When the family moved to another state, the CW specialist calls the state's CPS and makes a report regarding the child's safety.

(B) Any requested copies of child abuse or neglect records may be forwarded to the requesting state, per OAC 340:75-1-44.

(4) When a family is found after an assessment or investigation is closed due to unable to locate, the allegations in the child abuse or neglect report that led to the assessment or investigation are documented on a new Form 04KI001E, Referral Information Report.

(A) Critical thinking and sound judgement are used with any allegation previously made that resulted in a finding of unable to locate.

(B) When it is determined the previous allegation needs to be addressed, the allegations and any new allegations are assigned for investigation or assessment.

(5) No report is closed as unable to locate until the protocol per this ITS is followed.

#### 21. Referral to law enforcement.

(1) Form 04KI001E, may be sent to law enforcement for written documentation with Form 04CP002E, Notification to Law Enforcement Agency of Child Abuse or Neglect Report, attached.

(2) When forwarding Form 04KI001E to law enforcement, the reporter's name ~~of the reporter~~ is deleted. The reporter's name ~~of the reporter~~ is maintained on the copy that remains in OKDHS files and may be provided verbally to law enforcement, when requested.

(3) Examples of when a CW specialist makes a referral to law enforcement include, but are not limited to, when:

(A) a child has unexplained or implausibly explained bruising to the body;

(B) a child discloses physical or sexual abuse by a PRFC or third party;

(C) a child is malnourished as the result of PRFC neglect ~~by a PRFC~~;

(D) a child has unexplained or implausibly explained head trauma;

(E) a child was intentionally burned;

(F) a non-ambulatory child has a bodily fracture ~~to the body~~;

- (G) labor, sex, or drug trafficking involving a child or a child's home of origin;
  - (H) a child is drug-endangered;
  - (I) a PRFC is aware of ongoing abuse to a child in the home and fails to protect a the child from further abuse; or
  - (J) there is reason to believe a crime occurred that impacts a child's safety.
22. Assessment and investigation report submitted to appropriate DA. All reports of assessment recommendations and investigation findings are submitted to appropriate DAs, per 10A O.S. § 1-2-105. When multiple jurisdictions are involved, the report is provided to each appropriate DA's office.
  23. Failure to report child abuse or neglect. When it is determined during an assessment or investigation that there is a person who may have knowingly and willfully failed to make a report of child abuse or neglect, the CW specialist discusses the information with the CW supervisor. The information may be forwarded to local law enforcement using Form 04CP002E for the purpose of a criminal investigation.
  24. False reports of abuse or neglect made knowingly and willfully. When, in the course of the assessment or investigation, the CW specialist determines a false report concerning child abuse or neglect was knowingly and willfully made, the CW specialist discusses the information with the CW supervisor. With supervisory approval, information regarding the false report is forwarded to law enforcement for consideration of a criminal investigation, using Form 04CP002E. Form 04KI001E may be sent to law enforcement attached to Form 04CP002E. When forwarding Form 04KI001E to law enforcement, the reporter's name ~~of the reporter~~ is deleted. The reporter's name ~~of the reporter~~ is maintained on the copy that remains in the OKDHS file ~~ensuring the information~~ and may be provided verbally to law enforcement, when requested.
  25. Requests to assist law enforcement on non-OKDHS related investigations. When a law enforcement agency submits a written request for OKDHS to participate in an investigation, the CPS Programs Unit is contacted for guidance.

### PART 3. CHILD SAFETY EVALUATION CRITERIA AND PROCEDURE

#### **340:75-3-300. Child safety evaluation** ■ 1 through 15

Revised ~~9-15-21~~2-1-22

- (a) **Evaluating child safety.** Evaluating child safety is a primary child protective services (CPS) function. Safety refers to the child's present security and well-being when the child is assessed to be at risk of abuse or neglect. The safety evaluation is an adaptable and continuous process that is not complete until the child is safe and the case is closed.
- (b) **Determining the need for protective or emergency custody.** Oklahoma Human Services (OKDHS) evaluates whether to recommend emergency OKDHS custody of a child based on the seriousness of the child's abuse or neglect and if the child is in need of immediate protection due to an imminent safety threat. A child taken into protective custody by law enforcement is not considered in OKDHS emergency custody. A child

cannot be placed in OKDHS emergency custody, per Section 1-4-201 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-201) until:

- (1) the court issues a child-specific emergency custody order; or
- (2) OKDHS completes a safety evaluation, concludes the child faces an imminent safety threat, and the court issues a child-specific emergency custody order.

(c) **Protective custody for victims of human trafficking.** Any peace officer or district court, juvenile bureau, or Office of Juvenile Affairs employee, who has reasonable suspicion that a minor may be a victim of human trafficking and is in need of immediate protection, assumes protective custody over the minor and immediately notifies OKDHS. A child believed to be a victim of human trafficking is not considered in OKDHS emergency custody solely upon identification, but is transferred to OKDHS emergency custody, per 10A O.S. § 1-4-201.

(d) **Child safety meeting.** A child safety meeting is a collaborative decision-making process conducted to address each child's needs related to safety and to determine if the child's condition warrants a safety intervention including, but not limited to, a change in placement, and:

- (1) includes, at a minimum, appropriate OKDHS staff, the child's parents and, when the parent requests, an advocate or representative, as participants; and
- (2) to protect the safety of those involved and to promote efficiency, OKDHS may limit participants as determined to be in the child's best interests.

(e) **Alternatives to protective or emergency custody in cases of serious abuse or neglect.** When an alternative to protective or emergency custody is determined appropriate in circumstances where serious neglect or abuse is documented, an OKDHS form for a Safety Plan, is completed and implemented when the person responsible for the child's (PRFC) health, safety, or welfare agrees to cooperate with OKDHS efforts to ensure the child's safety. The Safety Plan describes the present danger ~~identified by the child welfare (CW) specialist~~ identifies and addresses actions to ~~be taken~~ take to ensure the child's safety until a thorough safety evaluation is completed. The PRFC and identified safety monitors sign the Safety Plan and agree to cooperate with OKDHS oversight to ensure the child's safety.

(f) **Safety planning without court involvement in cases of serious abuse or neglect.** In circumstances where serious neglect or abuse is documented, ~~and~~ upon completion of a thorough safety evaluation, and when an alternative to OKDHS custody is appropriate, an OKDHS form for a Safety Plan is completed and implemented, when the PRFC agrees to cooperate with OKDHS efforts to ensure the child's safety.

(1) The Safety Plan is developed and implemented by agreement without court intervention and describes the impending danger ~~identified by the CW specialist~~ identified and addresses actions to take to control or eliminate any identified safety threat.

(2) The implementation of a short-term Safety Plan does not preclude OKDHS from recommending court involvement.

(3) When the parent of a child in a Safety Plan is unavailable, the Safety Plan monitor may authorize medical or dental treatment or examinations if necessary for the child's well-being, per 10A O.S. § 1-3-104.

(g) **Removal of a child from the home.** A recommendation to remove a child from the home is made when, upon evaluating relevant conditions, a determination is made that:

- (1) in-home safety responses are not available or acceptable;
- (2) the ~~parent~~ PRFC appears unable or unwilling to protect the child;
- (3) an emergency exists that prohibits the timely arrangement of ~~timely~~ resources or services to reduce risk and threats of abuse or neglect, or such resources or services are unavailable; or
- (4) continued placement in the home is contrary to the child's health, safety, and welfare.

(h) **Placement considerations when the child is removed from the home.** When a child is removed from his or her home, placement preference is given to relatives and persons who have a kinship relationship with the child, per 10A O.S. § 1-4-204.

- (1) Siblings are placed together in the same home when appropriate and possible.
- (2) Placement decisions are made with the child's long-term best interests in mind.

(i) **Restoration of custody to the parent, legal guardian, or custodian when the child is in protective custody.** When the OKDHS safety evaluation indicates the child does not face an imminent safety threat, OKDHS restores the child to the custody and control of the parent, legal guardian, or custodian, per 10A O.S. § 1-4-201. Specific county procedures are followed with a request to release the child from protective custody.

(j) **Emergency removal of a child not in OKDHS custody.**

(1) Reasonable efforts are made to prevent the pre-petition removal of a child from the home unless a documented emergency exists that requires immediate removal. Per 10A O.S. § 1-4-201 and Section 671 of Title 42 of the United States Code, a child is removed from the home prior to the filing of a petition only when there is reasonable suspicion the:

- (A) child is in need of immediate protection due to an imminent safety threat; or
- (B) child's circumstances or surroundings are such that continuation in the child's home or in the care or custody of the parent, legal guardian, or custodian would present an imminent safety threat to the child and is contrary to his or her welfare.

(2) A Law enforcement may remove a child from the home without a court order ~~who when the child is in surroundings that pose an immediate threat to the child may be removed from the home by law enforcement without a court order.~~ When law enforcement declines to remove the child, or when OKDHS is responding to a referral without law enforcement involvement, and the child is believed to be in need of immediate protection due to an imminent safety threat, OKDHS prepares an affidavit to present to the district attorney (DA) to request that the DA consider filing an application with the court to obtain an emergency custody order, per 10A O.S. § 1-4-201.

(k) **OKDHS authority to execute a pre-petition emergency custody order.** Per 10A O.S. § 1-4-201, when the district court issues a pre-petition order placing the child in OKDHS emergency custody pending further hearing, an OKDHS employee may execute the emergency order and physically take the child into custody in limited circumstances, when:

- (1) the child is located in a hospital, school, or child care program; and
- (2) it is believed ~~assumption of~~ assuming custody of the child from the hospital, school, or child care program can occur without risk to the child or the OKDHS employee.

(l) **Medical care for child in protective custody.**

(1) When the child in protective custody is in need of emergency medical care prior to the emergency custody hearing, a peace officer, court employee, or the court may authorize such treatment as necessary to safeguard the child's health or life, when the:

(A) treatment is related to the suspected abuse or neglect; or

(B) parent or legal guardian is unavailable or unwilling to consent to physician-recommended treatment. Before a peace officer, court employee, or the court authorizes treatment based on the unavailability of the parent or legal guardian, law enforcement exercises diligence to locate the parent or guardian, when known, per 10A O.S. § 1-3-102.

(2) When law enforcement, the parent, or guardian is unwilling to consent to emergency medical care, the DA is contacted to obtain a court order for the child's treatment.

**(m) Notification, disposition, and release of the child in pre-petition emergency custody.**

(1) The court may provide for the disposition of the child taken into custody and notification to the court of the assumption of custody in an administrative order or rule issued, per 10A O.S. § 1-4-201. The administrative order or rule may include a process for the child's release prior to an emergency custody hearing. Specific county procedures are followed when the child is released from emergency custody prior to the emergency hearing.

(2) The court may order the child released to the parent, legal guardian, custodian, or to any responsible adult without conditions or under conditions the court finds necessary to ensure the child's safety, health, or welfare.

**(n) Post-petition removal of the child in OKDHS custody.** OKDHS may remove the child in OKDHS custody directly from the child's home when continued placement in the home is contrary to the child's health, safety, or welfare. OKDHS notifies the court prior to removal, or when an emergency exists, as soon as possible, following the child's removal.

(1) To ensure the safety of the child and the OKDHS employee, law enforcement assistance is requested in these situations.

(2) Refer to 10A O.S. § 1-4-806 when the child is in trial reunification status.

**(o) Child who left Oklahoma.** When the child who is the subject of an emergency custody or a pick-up order, left Oklahoma prior to the order's execution, the ~~enforcement of other state enforces~~ the emergency custody or pick-up order and ~~recognition of recognizes~~ Oklahoma's jurisdiction ~~by the other state must occur~~ to return the child to Oklahoma. Each circumstance is managed according to the laws and procedures in the state where the child is located.

**(p) Standardized assessment.** Every child taken into OKDHS custody is given a standardized assessment evaluating his or her physical, developmental, medical, mental health, and educational needs within 21-calendar days of entering OKDHS custody, per 10A O.S. § 1-4-208. The assessment is updated on a consistent basis and is considered when making placement and service plans.

**INSTRUCTIONS TO STAFF 340:75-3-300**

**Revised 9-15-21-1-22**

**1. (a) Evaluating child safety.**

**(1) Form 04KI030E, Assessment of Child Safety, is the tool used to document the safety evaluation by focusing. Form 04KI030E focuses on six key questions when gathering information to gather information regarding family functioning to determine if a child is safe or unsafe and whether Child Protective Services (CPS) intervention is required.**

**(A) Maltreatment. The child welfare (CW) specialist assesses the extent of the alleged maltreatment to determine if the child was abused or neglected. The CW specialist considers what is occurring or occurred, such as hitting or injuries. Information gathered in Section I, Six Key Questions Used in Gathering Information, Form 04KI030E, provides evidence to support or rule out the child maltreatment allegations. The information gathered includes:**

- (i) the maltreatment type;**
- (ii) the maltreatment severity;**
- (iii) the maltreatment history or duration;**
- (iv) a description of specific events;**
- (v) a description of emotional and physical symptoms;**
- (vi) identification of the child and the maltreating person responsible for the child's (PRFC) health, safety, and welfare;**
- (vii) the child victim's explanation of the maltreatment; and**
- (viii) collateral knowledge of the maltreatment.**

**(B) Circumstances. The CW specialist assesses the circumstances surrounding the alleged maltreatment and considers the nature of what behaviors or conditions surround the maltreatment. This key question addresses what is or was occurring at the time the maltreatment occurs or occurred and, includes the:**

- (i) PRFC's intent concerning the maltreatment;**
- (ii) PRFC's explanation of family conditions;**
- (iii) PRFC's acknowledgement of and attitude about the maltreatment;**
- (iv) PRFC's history or pattern of maltreatment of the subject child or others by the PRFC;**
- (v) PRFC's criminal history;**
- (vi) presence of other problems occurring in association with the maltreatment, such as PRFC's substance use or abuse or behavioral health;**
- (vii) PRFC's and the subject child's sibling's explanation of the maltreatment;**
- (viii) collateral information related to the circumstances and history; and**
- (ix) any prior or current court involvement.**

**(C) Child functioning. The CW specialist assesses the child's well-being, how the child functions or behaves on a daily basis, and the child's role in the family. The CW specialist considers the child's general behavior, emotions, temperament, and physical capacity.**

- (i) This key question determines:**
  - (I) if the child's individual needs are being met;**
  - (II) if there are any unusual child behaviors;**

- (III) the child's sense of security;
  - (IV) the child's physical health and medical needs;
  - (V) the child's vulnerability;
  - (VI) if there are signs of positive interaction with PRFC(s); and
  - (VII) if there is any collateral information related to child functioning.
- (ii) Information gathered in this phase of the safety assessment includes the child's:
- (I) capacity for attachment;
  - (II) general mood and temperament;
  - (III) intellectual functioning;
  - (IV) communication and social skills;
  - (V) expressions of emotions and feelings;
  - (VI) behavior;
  - (VII) peer relations;
  - (VIII) school performance and educational needs;
  - (IX) motor skills;
  - (X) physical and behavioral health;
  - (XI) functioning within cultural norms;
  - (XII) developmental functioning; and
  - (XIII) gender identity and sexual orientation.
- (iii) The child's functioning, including physical, developmental, medical, behavioral health, and educational needs, is evaluated regularly and is considered when making the child's placement and service plans.
- (D) Parenting – discipline. The CW specialist assesses the disciplinary approaches ~~used by the PRFC~~ uses and the circumstances for using the discipline. Information gathered in this phase of the safety assessment includes:
- (i) the discipline methods of discipline used by the PRFC uses and their frequency;
  - (ii) the PRFC's concept and purpose of discipline, such as providing direction, managing behavior, or teaching;
  - (iii) the context in which discipline occurs;
  - (iv) the PRFC's emotional state when disciplining;
  - (v) if the PRFCs agree on the type and use of discipline;
  - (vi) the PRFC's perception of the effectiveness of utilized disciplinary approaches;
  - (vii) the PRFC's view of his or her own discipline experience as a child;
  - (viii) if the PRFC's discipline is based on reasonable expectations of the child;
  - (ix) the influence of cultural practices on discipline;
  - (x) the child's perception of the discipline methods; and
  - (xi) collateral information obtained related to family discipline.
- (E) Parenting - general. The CW specialist gathers information to evaluate the overall family values and cultural influences within the family.
- (i) The CW specialist assesses PRFC's parenting practices used by the PRFC determining to determine if the:

- (I) PRFC's primary parenting practices are developmentally appropriate;
  - (II) PRFC expresses empathy for the child; and
  - (III) PRFC recognizes danger or threats of danger to the child.
- (ii) Information gathered in this phase of the safety assessment includes the PRFC's:
- (I) reasons for being a parent;
  - (II) satisfaction in being a parent;
  - (III) knowledge and skill in parenting and child development;
  - (IV) expectations and empathy for the child;
  - (V) general parenting style;
  - (VI) protective capacities; and
  - (VII) collateral information related to parenting.
- (F) Adult functioning. The CW specialist assesses adult functioning by considering how the PRFC feels, thinks, and acts on a daily basis, with a focus on adult functioning and coping skills.
- (i) This key question determines if the PRFC:
- (I) is committed to the child's safety;
  - (II) is willing to do what is necessary and required within the Safety Plan;
  - (III) understands why the child is unsafe; or
  - (IV) is impeded by behavioral health or substance use or abuse issues in offering protection to the child.
- (ii) Information gathered in this phase of the safety assessment includes the PRFC's:
- (I) coping and stress management abilities;
  - (II) self-control in relationships and discipline;
  - (III) problem-solving abilities;
  - (IV) judgment and decision-making abilities;
  - (V) home and financial management;
  - (VI) employment history;
  - (VII) domestic violence or substance use or abuse histories;
  - (VIII) behavioral health;
  - (IX) physical health and capacity; and
  - (X) collateral information related to adult functioning.
- (2) Critical thinking is used when applying the safety threshold and evaluating the PRFC's protective capacities.
- (3) The CW specialist completes Section II of Form 04KI030E, entitled Protective Capacities of the PRFC, on the assigned report.
- (4) The safety threshold is compromised when family behaviors, conditions, or situations manifest in a way that is not controlled or managed.
- (5) CPS history is considered when determining safety.
- (6) When present danger exists, a Safety Plan is implemented to remove the child from harm using Form 04MP078E, Family Service Agreement (FSA)/Safety Plan, while the safety evaluation is completed.

(i) The CW specialist completes Form 04MP078E, Part B, Safety Intervention Identified Safety Threats, applying the safety threshold to identify safety threats that are:

- (I) specific;
- (II) severe;
- (III) observable;
- (IV) occurring now or likely to occur in the near future;
- (V) out-of-control; and
- (VI) applicable to a vulnerable child.

(ii) When a child is found unsafe, the CW specialist completes:

- (I) Form 04KI030E Sections IV, Safety Decision, and V, Safety Threat Intervention; and
- (II) Form 04MP078E, or Form 04CP008E, Child Protective Services Affidavit, when an alternative to emergency custody is not possible.

2. Review of a substantiated finding with a safe determination. The CPS supervisor reviews the substantiated finding of abuse or neglect when the child is determined safe. The determination is made when:

- (1) an assessment of child safety is completed and no safety threats were identified;
- (2) the safety threshold was correctly applied;
- (3) the PRFC demonstrates adequate protective capacities to keep the child safe;
- (4) an assessment was properly upgraded to an investigation, when applicable;
- (5) the proper substantiation protocol was applied; and
- (6) a safe determination is not made solely as a result of a guardianship or a power of attorney with a relative or non-relative caregiver.

3. Present danger.

(1) Present danger means an immediate, significant, and clearly observable family condition is occurring and is endangering, or threatening to endanger a child.

(A) When present danger exists, steps are taken to protect the child through the implementation of by implementing a short-term Safety Plan.

(B) The Safety Plan is designed to protect the child while the safety evaluation is completed.

(C) Present danger includes, but is not limited to, circumstances, such as when a child is found in:

- (i) the street and a PRFC cannot be located, thus requiring a Safety Plan to identify adequate supervision for the child; or
- (ii) an unsanitary home infested with vermin, the PRFC may choose to use a Safety Plan to voluntarily place the child in a safe location with relatives for short-term care.

(2) When present danger exists and the Safety Plan requires a child's temporary placement outside of the child's home, out-of-home safety planning protocol, per Oklahoma Administrative Code (OAC) 340:75-3-300 Instructions to Staff (ITS) # 7 through # 9 are followed.

(3) When the child's safety is secured, the safety evaluation is completed to determine if impending danger exists. When impending danger exists, the Safety Plan is modified as necessary.

(4) Upon the safety evaluation's completion, the Safety Plan is dissolved when present and impending danger are no longer present exist.

**4. Impending danger.**

(1) Impending danger means the presence of a threatening family condition that is:

- (A) specific;
- (B) severe;
- (C) observable;
- (D) occurring now or likely to occur within the next few days;
- (E) out-of-control; and
- (F) applicable to a vulnerable child.

(2) Impending danger includes specific threats to the child's safety that:

- (A) are harmful, but are not immediate, obvious, or active at the onset of CPS intervention;
- (B) are identified and understood after evaluating individual and family conditions and functioning;
- (C) result in severe harm if a safety intervention does not occur and is not sustained; and
- (D) require the development of a Safety Plan implemented through services to the family or court intervention monitored by CPS until the impending danger is under control.

(3) Neither a guardianship nor a power of attorney is considered an adequate control for impending danger and the processes in (2)(D) of this ITS may be required.

**5. Child safety meeting (CSM). A CSM is a collaborative decision-making process for determining the child's needs and the best intervention strategy to meet the child's safety needs.**

(1) The Oklahoma Human Services (OKDHS) makes reasonable efforts to provide a trained facilitator to guide the decision-making process.

(2) Any determination that a CSM is not possible or is unnecessary requires a district director's approval and the reasons supporting the decision are documented in the KIDS Referral Contact screen.

(3) The CSM occurs prior to the emergency (show cause) hearing, but no later than two-business days from the intervention date. When the CSM occurs after two-business days, it is documented as a family meeting and not as a CSM.

(4) A CSM is held any time the child's current safety condition warrants consideration of a safety intervention by moving a child, having a parent leave the home, or having a monitor move in.

(5) The CSM's goal is to reach consensus about what steps will be taken to ensure child safety; however, Child Welfare Services (CWS) maintains legal responsibility for child safety and must make a decision when the full team cannot reach consensus.

(6) The CW specialist explains the CSM's purpose to the parent(s) and encourages inviting others, such as relatives, friends, or neighbors, who care about the child ~~and/or~~ or could help keep the child safe.

(7) The CSM aims to determine the least-restrictive, least-intrusive intervention to ensure the child is safe.

(8) A child 12 years of age and older is expected to participate in parts of the CSM, at least. For a child younger than 12 years of age, participation is considered and, when not attending the meeting, the CPS specialist develops a plan for eliciting his or her the child's point of view is developed by the CPS specialist who and brings the child's point of view to the CSM.

(9) When the participants at the CSM cannot come to a consensus regarding the safety decision, the facilitator asks the assigned CPS specialist and supervisor to make the decision. When the facilitator or any other OKDHS staff participant does not feel the decision made is in the child's best interest, a request is then made for the district director to review the CSM decision.

(10) When domestic violence is a concern, two separate CSMs are held, one with the alleged batterer and one with the adult domestic violence victim. These meetings occur at a time and location where it is unlikely the alleged batterer and adult victim will make contact.

(11) In most cases, a guardianship is not an appropriate plan to secure a child(ren)'s safety.

(12) The Safety Plan implemented when present danger was found can be modified during the CSM as necessary to secure the child's safety.

(13) The CSM facilitator documents the CSM summary and outcome are documented in a KIDS Case Contact ~~by the CSM facilitator~~.

#### **6. Evaluating need for protective or emergency custody.**

(1) Law enforcement may place a child in protective custody.

(2) When emergency custody is indicated, OKDHS staff prepares and presents Form 04CP008E, Child Protective Services Affidavit, to the district attorney (DA) documenting:

(A) the imminent safety threat;

(B) why continuation of the child in the home is contrary to his or her welfare; and

(C) a request for emergency custody of the child.

(3) When Form 04CP008E is presented to the DA and declined, the CW supervisor requests to meet with the DA the same day to further articulate the imminent safety threat, reasonable efforts made to prevent removal, and why the child's continuation in the home is contrary to his or her welfare.

(A) After the CW supervisor meets with the DA, if the DA continues to deny the request for emergency custody of the child, the district director requests to speak to the DA regarding the request.

(B) When the DA continues to deny the request after being contacted by the district director, the CW specialist, supervisor, district director, and regional director staff the case to determine further case planning. Poor prognosis indicators as outlined in OAC 340:75-4-12.1 are considered. The staffing is documented in a KIDS Case Contact.

(C) When the DA denies a request for emergency custody, and the safety threat is determined to be manageable through a Safety Plan and family-centered services (FCS), the CW specialist attempts to engage the family in a Safety Plan and FCS.

(D) When it is not possible to engage the family in a Safety Plan and FCS due to either an unmanageable safety threat or the family's unwillingness, the CW specialist completes Form 04KI003E, Report to District Attorney, within five-calendar days requesting court intervention by recommending a deprived petition. The When court intervention is requested, the CW specialist documents the DA's comments on Form 04KI003E in a KIDS Case Contact, ~~the DA's comments on Form 04KI003E, when court intervention is requested.~~

(E) When Form 04KI003E requests court intervention by recommending a deprived petition, ~~is denied by~~ the DA denies the request, and, OKDHS is unable to work the case preventatively, the DA is notified in writing that OKDHS is closing CW involvement with the court intervention recommendation, and no longer engages with the family on an ongoing basis.

(F) When closing the case, OKDHS provides the PRFCs with all necessary contact and referral information for pertinent service providers. The service recommendations are documented in a KIDS Case Contact.

(4) ~~Law~~ A law enforcement or a entity, or district court, juvenile bureau, or Office of Juvenile Affairs (OJA) employee may place a child that is believed to be a victim of human trafficking in protective custody. Upon notification from the agency assuming protective custody, OKDHS immediately begins conducting a safety analysis and prepares and presents Form 04CP008E to the DA within 23 hours of the notification requesting emergency custody of the child.

(A) An emergency custody (show cause) hearing is conducted, per Section 1-4-203 of Title 10A of the Oklahoma Statutes and OAC 340:75-3-300.

(B) A joint investigation is conducted with law enforcement, per OAC 340:75-3-110, and may involve coordination with other states when the child is not an Oklahoma resident.

(C) OKDHS staff works jointly with the entity that assumed protective custody to determine the child's safest placement option, ~~considering.~~ OKDHS staff considers the safety of the victim and other children, and the victim's behavioral needs.

(i) The child can be in OKDHS emergency custody and in the parent's or legal guardian's physical care when there is no reason to suspect the parent or legal guardian contributed to the exploitation or other abuse ~~and/or,~~ neglect, or both.

(ii) A National Crime Information Center (NCIC) search is requested for every child that is recovered.

(iii) A child who is not an Oklahoma resident may remain in detention as a runaway child until arrangements are made for the state of residence to pick up the child.

- (D) The child is provided a medical evaluation and behavioral health services while in emergency custody.
- (E) Notification is sent to the CPS Programs Unit.
- (F) OKDHS staff may release the child from OKDHS emergency custody to a parent or legal guardian after an investigation, when it is determined a safety threat is not present including, but not limited to, further exploitation. Written permission from the court of jurisdiction is required.
- (G) When it is determined the child warrants continued OKDHS custody, protocol related to human trafficking victims is followed, per OAC 340:75-3-400.
- (H) When the final determination confirms the child is a victim of human trafficking, OKDHS staff notifies the law enforcement entity, or district court, juvenile bureau, or OJA employee who assumed protective custody of the child ~~when the final determination confirms the child is a victim of human trafficking~~.
- (5) The CW specialist consults with the CW supervisor throughout the evaluation process and documents the decision in the case record.
- (6) The CW specialist considers poor prognosis indicators as outlined in OAC 340:75-4-12 ITS.
- (7) Cases of serious abuse or neglect described in (A) through (Q) may pose an imminent safety threat to a child and require a recommendation for placement of the child in protective or emergency custody.
- (A) The child was assaulted, hit, poisoned, or burned so severely that serious injury resulted, or could have resulted.
- (B) An infant has bruising or burns on any part of the body and the injuries are suspicious for, or consistent with, child abuse or neglect.
- (C) The child is 5 years of age and younger and the PRFC demonstrates no attachment to the child and has dangerously inappropriate parenting skills.
- (D) The child was systematically tortured or inhumanely punished. For example, the child was locked in a closet for long periods, forced to eat unpalatable substances, or forced to squat, stand, or perform other unreasonable acts as a means of torture.
- (E) The PRFC's reckless disregard for the child's safety caused or could have caused serious injury. For example, the PRFC left a young child in the care of an obviously irresponsible or dangerous person.
- (F) The home's physical condition ~~of the home~~ is dangerous and poses an immediate threat of serious injury to the child. For example, exposed electrical wiring or other materials create an extreme danger of fire or there are gas leaks in the home.
- (G) The child was sexually abused or sexually exploited and the perpetrator has access to the child.
- (H) The PRFC purposefully or systematically withheld essential food or nourishment from the child. For example, the child was denied food for extended periods as a form of punishment for real or imagined misbehavior.
- (I) The PRFC refuses to obtain or consent to medical or psychiatric care that is immediately required for the child, as documented by medical evaluation, to prevent or treat a serious injury or disease. The child's physical condition

shows signs of severe deterioration and the PRFC seems unwilling or unable to respond.

(J) The PRFC appears to suffer from mental illness, intellectual disability, or substance use or abuse so severe that he or she does not provide for the child's basic needs, such as the PRFC who is demonstrably out of touch with reality or significantly intoxicated.

(K) The PRFC abandoned the child and made no safe and appropriate plans for the child's care.

(L) There is reason to suspect, based on a history of frequent moves or of hiding the child from outsiders, the PRFC may flee with the child and the child is in danger.

(M) There is specific evidence the PRFC's anger and discomfort about the report and subsequent investigation will result in serious retaliation against the child. The information is gained through:

(i) a review of the PRFC's past behavior;

(ii) the PRFC's statements and behaviors during the investigative interview; or

(iii) reports from others who know the PRFC and family.

(N) A baby is born to the PRFC who is currently involved in an open permanency planning case and has not successfully corrected conditions that resulted in court intervention or there is a pending motion to terminate parental rights.

(O) The PRFC's parental rights to other children were terminated and there is harm or significant threat of harm to the child in the PRFC's home.

(P) The child has a developmental or physical disability and the PRFC demonstrated an inability or unwillingness to address the child's special needs. For example, the PRFC does not:

(i) apply for or follow through with appropriate developmental services or resources for the child and the child is negatively impacted;

(ii) seek routine, on-going, or follow-up medical care for the child's specific disability; or

(iii) consistently or adequately maintain the child's physical care needs, such as hygiene or nutrition that impacts the child's well-being.

(Q) The PRFC routinely fails to seek all needed or recommended medical or behavioral health treatment for a child with a diagnosed chronic condition requiring routine follow-up. For example, the PRFC does not:

(i) provide the child with preventative asthma medications and the child has multiple hospitalizations for asthma exacerbation;

(ii) provide consistent oversight of a child with diabetes blood sugar levels and ensure the child takes the prescribed medication to control the disease; or

(iii) ensure that a child with a history of behavioral health issues has consistent access to a licensed practitioner to address the child's needs and his or her functioning is adversely effected.

## **7. Safety Plan.**

(1) When a child is determined unsafe, the CW specialist evaluates the PRFC's protective capacities, available supports, such as relatives or community resources, and the PRFC's willingness to collaborate with OKDHS to keep the child safe.

(A) When safety threats cannot be managed through a Safety Plan, or the PRFC does not agree to comply with the Safety Plan, protective or emergency custody of the child and court intervention is requested.

(B) A Safety Plan does not preclude a recommendation for OKDHS recommending court intervention and supervision by OKDHS.

(C) The Safety Plan:

(i) is utilized when the child is determined unsafe and court-ordered removal of the child from the home is not requested;

(ii) is utilized when the safety evaluation is completed and present and/or, impending danger is identified, or both;

(iii) is completed when the family agrees to collaborate with OKDHS to control and manage identified safety threats;

(iv) may be utilized with or without court involvement; and

(v) is documented on Form 04KI030E and detailed on Form 04MP078E.

(D) A Safety Plan is developed to control and manage the safety threats while the child remains in the home or while the child temporarily stays in an alternative location outside of the home. When OKDHS and the PRFC agree to utilize a Safety Plan:

(i) a monitor is identified;

(ii) Form 04MP078E, Family Services Service Agreement (FSA)/Safety Plan, is completed; and

(iii) protocols for determining service needs are followed, per OAC 340:75-4-12.1.

(2) A Safety Plan's purpose is to control safety threats immediately. The Safety Plan:

(A) specifies what safety threats exist, to establish what must be controlled;

(B) identifies how the safety threat will be managed and controlled, including:

(i) by whom;

(ii) under what circumstances and agreements;

(iii) within what time frame; and

(iv) the availability, accessibility, and suitability of those involved; and

(C) includes how CPS or others monitor and oversee the plan.

(3) Engaging kin in safety planning creates more options for support. The CW specialist:

(A) identifies as many kin as possible to support the family;

(B) engages those who know the child best; and

(C) facilitates a CSM.

(4) When safety planning, decisions are made at the CSM with the family's input regarding the child's safety including his or her physical and emotional well-being.

**(5) Following guidelines, per OAC 340:75-4-12.1 and OAC 340:75-4-12.1 ITS, the CW specialist:**

**(A) assesses the PRFC's reliability, willingness to cooperate, commitment, and alliance to the Safety Plan;**

**(B) ensures all necessary arrangements for the Safety Plan are made and agreed to by each participant;**

**(C) contacts, no less than weekly, persons responsible for the Safety Plan until the safety threats in the family are significantly reduced.**

**8. Safety Plan factors. Questions (1) through (7) of this Instruction are considered when evaluating the relative's, kinship monitor's, or non-perpetrator PRFC's protective capacities for adequately protecting the child from the perpetrator.**

**(1) Does the relative, kin, or non-perpetrator PRFC believe that abuse or neglect occurred? If not, has the relative, kin, or non-perpetrator PRFC demonstrated behaviors related to protective capacities? If not, adequate protection may not be provided.**

**(2) Is the non-perpetrator PRFC strongly dependent on the perpetrator for financial and emotional support for the child? If so, it may initially be difficult for the non-perpetrator PRFC to overcome his or her own needs and protect the child.**

**(3) Is the non-perpetrator PRFC a victim of domestic violence or emotional abuse by the perpetrator? If so, the non-perpetrator PRFC may be fearful of the perpetrator and unable to protect the child until services begin.**

**(4) Did the relative, kin, or non-perpetrator PRFC fail to protect the child from abuse or neglect or fail to heed serious warning signs that abuse occurred? If so, the relative, kin, or non-perpetrator PRFC may not see a threat to the child when the perpetrator wants unauthorized contact with the child.**

**(5) Does the relative, kin, or non-perpetrator PRFC display a willingness to control and manage the safety threats; or is his or her agreement to participate in the Safety Plan only to avoid the child's removal? When there is no willingness to seek help to alleviate the concerns that led to the abuse or neglect, relying on the relative, kin, or non-perpetrator PRFC is not an adequate Safety Plan.**

**(6) Is the non-perpetrator PRFC planning to seek action in civil court to change custody? If so, custody change must be evaluated to determine if it will adequately protect the child. It is likely that family time will continue even with a change in custody. An action in civil court does not ensure that all information regarding the abuse or neglect is heard and considered in custody and family time decisions.**

**(7) Does the relative, kin, or non-perpetrator PRFC have difficulties due to substance use or abuse? If so, these difficulties may prevent the relative, kin, or non-perpetrator PRFC from adequately protecting the child.**

**9. Assessing Safety Plan participants.**

**(1) Prior to engaging individuals as Safety Plan monitors or caregivers, the CW specialist assesses the individual's:**

**(A) protective capacities;**

**(B) willingness to collaborate with OKDHS to ensure the child's safety; and**

(C) alignment with the Safety Plan.

(2) When a Safety Plan is implemented, checks must be completed on an in-home or out-of-home Safety Plan or caregiver. The CW specialist:

(A) uses Form 04AF007E, Record Check Documentation, as a guide to review CWS records to determine if the prospective Safety Plan monitor or any adult residing in the prospective monitor's home has a history of child abuse or neglect;

(B) completes and submits Form 04AD003E, Request for Background Check, to the OKDHS Office of Background Investigations (OBI) ~~Form 04AD003E, Request for Background Check~~, requesting to request a name-based criminal history records search for the prospective Safety Plan monitor and each adult household member;

(C) determines if the prospective Safety Plan monitor or caregiver and any adult household member:

(i) is subject to the Oklahoma Sex Offender Registration Act ~~and/or~~, the Mary Rippey Violent Crime Offender Registration Act, or both. Refer to OAC 340:75-7-15 ITS;

(ii) has convictions for specified felony offenses. Refer to OAC 340:75-7-15;

(iii) is or was a party in any court action by searching the Oklahoma State Courts Network including Oklahoma District Court Records; and

(iv) is subject to the Restricted Registry, also called Joshua's List. Refer to OAC 340:110-1-10.1;

(D) does not utilize individuals convicted of the felony offenses of:

(i) physical assault, battery, or a drug-related offense within the preceding five-year period;

(ii) child abuse or neglect;

(iii) domestic abuse;

(iv) a crime against a child including, but not limited to, child pornography or child exploitation; or

(v) a crime involving violence including, but not limited to, rape, sexual assault, or homicide. Homicide includes manslaughter. A crime involving violence means an offense that:

(I) has an element of the use, attempted use, or threatened use of physical force against the person or property of another; or

(II) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense;

(E) does not utilize an individual who is a registrant on the Restricted Registry;

(F) conducts a search, no later than the next business day, to see if the Safety Plan monitor is subject to the:

(i) Community Services Worker Registry:  
<https://cswrpublic.okdhs.org/cswrpublic/>; or

(ii) Nontechnical Services Worker Registry:  
<https://www.ok.gov/health/Protective Health/Health Resources Develo>

**ment Service/Nurse Aide and Nontechnical Services Worker Registry/#NTSW;**

**(G) performs a Juvenile Online Tracking System (JOLTS) check on any child in the prospective home who is 13 through 17 years of age;**

**(H) uses Form 04AF004E, House Assessment, as a guide when determining the home's physical safety on an out-of-home Safety Plan;**

**(I) contacts, no later than the next business day, other states in which the Safety Plan monitor or adult household members resided, and, requests CW history for each adult in the household;**

**(J) may preliminarily approve an individual(s) with any criminal or CW history found in his or her background search, such as protective order petitions, police reports, or judgements and sentences, as a Safety Plan monitor with the district director's approval, preliminarily approves a Safety Plan monitor for any criminal or CW history found in a person's background search, such as protective order petitions, police reports, or judgements and sentences,.**  
**The individual(s) is only preliminarily approved when the criminal or CW history occurred more than five years prior to the assessment date as a monitor and the individual(s) resided in Oklahoma for the past five-consecutive years. The CW specialist begins obtaining copies of all records the next business day after preliminary approval;**

**(K) reviews the CW and criminal history of the prospective Safety Plan monitor and each adult household member with the CW supervisor or district director. The district director may grant exceptions for certain felony convictions but does not grant exceptions for felony convictions, relevant misdemeanors, or registrants on Restricted Registry, per OAC 340:75-7-15;**

**(L) when the Safety Plan monitor is approved, ensures that each adult household member submits fingerprints to OBI within five-business days of running the name-based criminal history records search through OBI, regardless of the type of background search requested. OBI is notified when the Safety Plan monitor is denied; and**

**(M) documents information obtained regarding the assessment of the Safety Plan monitor, household members, and other Safety Plan participants as a Contact in KIDS and files copies of the completed forms in the KK case file associated with the CPS investigation. Records are not stored in the document management system.**

**(3) When a child is placed in protective or emergency custody, the guidelines in OAC 340:75-7-15 are followed prior to the child's placement in a kinship home.**

**(4) A Safety Plan monitor may seek medical or dental treatment for a child placed in a Safety Plan when:**

**(A) the medical or dental care is in the best interest of the child's well-being; and**

**(B) the CW specialist made diligent, good faith efforts to locate and obtain consent from the biological and legal parents or guardians, and one of the conditions (i) through (v) is present. The child's parent or guardian:**

**(i) is incapacitated due to a health condition or cognition functioning and is unable to provide consent;**

(ii) is incarcerated and the CW specialist is unable to obtain the parent's or guardian's consent after diligent good faith attempts with the penal institution;

(iii) was admitted to inpatient treatment and after diligent, good faith attempts, the CW specialist is unable to obtain consent;

(iv) abandoned the child with the Safety Plan monitor; or

(v) is deceased.

**10. OKDHS authority to execute an emergency custody order. An order issued by the district court placing a child in OKDHS emergency custody is executed and the child is taken into custody by law enforcement or a court employee; however, a CW specialist may remove a child ~~may be removed~~ from a hospital, educational facility, or a child care program ~~by a CW specialist~~ when the criteria in (1) through (5) of this Instruction are met prior to removal.**

**(1) The CW specialist and supervisor establish that the removal is necessary to protect the child from safety threats resulting in serious abuse or neglect.**

**(2) The CW specialist prepares and submits Form 04CP008E to the DA who obtains a written emergency custody court order that includes a statement that the child may be removed from the hospital, educational facility, or a child care program by the CW specialist to protect the child from safety threats.**

**(3) ~~A determination is made by the~~ The CW supervisor and district director determine that the child's removal from the hospital, educational facility, or child care program can occur without disruption to the facility or program; or hostility, risks, or threats to the child or CW specialist.**

**(4) ~~A~~ The CW specialist provides a copy of the written emergency custody court order ~~is provided by the CW specialist~~ to the hospital, educational facility, or a child care program at the time of the removal.**

**(5) The CW specialist notifies the PRFC of the removal the same day and immediately provides the PRFC with a copy of the written emergency custody order, either when the PRFC is present or as soon as possible. When the notification will place the specialist in danger, law enforcement assistance is requested.**

**(6) Following execution of a court order to remove the child, the child's removal and placement are entered in KIDS as soon as possible, but no later than two-business days after the child was physically placed in OKDHS custody.**

**11. Preparation for removal. When the decision is made to remove a child from the child's home, the CW specialist makes efforts to reduce the trauma and stress for the child and family by properly preparing all persons involved. Preparing the family as well as the child is crucial when removal occurs.**

**(1) The CW specialist prepares the family by:**

**(A) explaining the reasons for the child's removal and placement;**

**(B) answering questions about court procedures;**

**(C) making clear the intent is to reunify the child with the family, when appropriate, as soon as the home is safe for the child;**

**(D) encouraging the parent, once he or she understands and accepts the reasons for the placement, to help explain the reasons for the placement to**

the child. This may comfort and reassure the child that the parent will work with the CW specialist to facilitate the child's return to the home;

(E) asking the parent to provide in-depth information regarding the child's schedule, routines, likes and dislikes, and medical needs to help the placement provider maintain continuity for the child. The CW specialist:

(i) completes Form 04MP012E, Receipt and Release of Prescription and Over-the-Counter Medication(s), with the parent when the child takes medication or has medical needs or allergies;

(ii) asks the parent to provide a copy of the child's birth certificate or to bring it to the next court appearance. When the parent fails to provide a copy within 20-calendar days, the CW specialist completes Application for Search and Certified Copy of Birth Certificate to obtain a full-certified copy of the child's birth certificate and submits the form to Child Welfare Services Finance and Business Operations (FBO) for a certified copy, per OAC 340:75-13-9. This form is located on the OKDHS InfoNet under Non-OKDHS forms and is available at the Oklahoma State Department of Health Division of Vital Records website: [http://www.ok.gov/health2/documents/VR\\_BCRequest\\_interactive.pdf](http://www.ok.gov/health2/documents/VR_BCRequest_interactive.pdf);

(iii) asks the parent to complete Form 04MP015E, Important People in the Child's Life, to document and maintain the child's ongoing relationships; and

(iv) enters information obtained from Form 04MP015E or other sources into the Family/Kinship Connections screen in KIDS. Form 04MP015E is scanned and saved into KIDS ~~File Cabinet~~ document management system;

(F) acknowledging the parent's anger and grief in response to the loss of his or her child, and expecting the parent to be initially resistant;

(G) encouraging the parent's involvement in all aspects of the planning and placement process;

(H) encouraging the parent, when appropriate, to make recommendations of potential homes where the child may be placed;

(I) providing OKDHS Publication No. 99-27, A Parent's Guide to Working with Child Welfare, to the parent; and

(J) arranging the initial meeting between the parent and the foster parent.

(2) Adequately preparing the child for the placement serves several important purposes.

(A) The CW specialist alleviates many of the child's anxieties and reduces the child's stress by providing the child with information regarding the need for placement and by familiarizing the child with aspects of the setting where the child is moving.

(B) When the CW specialist does not know the child well, the CW specialist uses the preparation period to better assess the child's strengths and needs. The information is communicated to the placement provider to assist the provider receiving the child and making his or her transition into the new setting easier.

(C) Working with the child during the preparation phase helps the child establish a supportive relationship with the CW specialist.

**12. (a) Placement considerations.**

(1) The child's functioning including physical, developmental, medical, behavioral health, and educational needs is evaluated regularly and is considered when making the child's placement and service plans.

(2) Placement with the ~~non-offending~~ non-perpetrating parent, relatives, or kin is considered and siblings are placed together in the same home when appropriate and possible. Per ITS # 8 of this Section, relative or kinship placements are assessed in terms of the child's safety and long-term needs. Relatives or kin are only considered, when the:

(A) child will be safe with the relative or kin. The family's history is explored extensively with the child's PRFC and the relative or kin considered for placement;

(B) relative or kin:

(i) can provide a home that does not pose an obstacle to reunification plans as demonstrated by the relative's or kin's willingness to work with OKDHS and the family toward reunification;

(ii) is willing to accept placement of a sibling so the siblings are not separated or the relative or kin is willing to facilitate contact between the siblings; and

(iii) could potentially provide long-term care for the child. The CW specialist considers the relative's or kin's abilities and willingness to meet the child's day-to-day, individual needs if the placement becomes long-term.

(3) When a child was seriously abused or neglected, the perpetrator may have been a victim of abuse or neglect within his or her own family. His or her relatives or kin may have been victims of or impacted by abuse or neglect within the family. This kind of family history may place the child in an unsafe situation in the relative's or kin's home.

(b) Placement in foster family care. When an emergency foster family placement is made, the placement is evaluated quickly and arrangements are made to make a more appropriate placement as soon as possible. When it is determined that foster family care is the best placement option for the child, considerations include, but are not limited to, if the:

(1) foster parent has the ability and willingness to meet the child's day-to-day and individual needs, such as providing a stimulating environment and ensuring the child the opportunity to participate in extracurricular activities;

(2) other children placed in the foster family home pose a safety threat to the child considered for placement; and

(3) foster family is able to accept sibling placement or facilitate contact between the siblings.

(c) Initial placement. The placement made at the time of the child's initial removal from the home has a significant impact on the child's safety and ultimately the possibility for successful reunification with the family or alternative permanent plans for the child.

(d) Sibling placement. Every reasonable attempt is made to place siblings together when appropriate and possible. When it is not possible to place siblings together initially, efforts begin the next business day and actively continue to place the siblings in the same home.

(e) Adoption dissolution notification. The CW specialist notifies the adoption specialist and the Post-Adoption Services staff of the child's placement in out-of-home care when the child:

(1) receives adoption assistance; or

(2) is placed in, or returned to, OKDHS custody due to the dissolution of an OKDHS - or other type of adoption.

(f) Placement of a medically fragile or disabled infant.

(1) Factors that determine if an infant in OKDHS custody is medically fragile or disabled include:

(A) prematurity;

(B) a history of respiratory distress;

(C) oxygen dependency;

(D) a diagnosis requiring special care beyond routine infant care;

(E) being 6 weeks of age and younger; and

(F) medical conditions or illnesses that may result in increased episodes of illness, prolonged hospitalization, and increased cost for care.

(2) An appropriate placement for an infant who is medically fragile or disabled includes an approved foster or kinship home, health care facility, or shelter that meets the criteria in (A) through (C) of this paragraph. The placement:

(A) provider for the infant has undergone all necessary training required to meet the infant's medical needs;

(B) setting has all of the necessary equipment required to meet the infant's medical needs, the placement provider knows how to use the equipment, and the equipment is in operating condition; and

(C) provider is willing and able to:

(i) follow all medical requirements and orders as given by the infant's physician;

(ii) transport the infant to all medical appointments; and

(iii) keep the infant's CW specialist fully apprised of the infant's condition.

(3) The CW specialist at the time of placement gives the placement provider all medical and other related information about the infant's condition and updates the placement provider concerning any new information as it occurs.

13. Foreign nationals. A child's removal from the home is based on safety considerations without regard to citizenship or immigration status. When the child who is a foreign national is removed from the home, the CW specialist notifies the foreign consul by completing Form 04MP016E, Notice to Foreign Consul of Child Welfare Proceedings, per OAC 340:75-1-31 ITS. A copy of Form 04MP016E is forwarded to OKDHS Legal Services.

14. Protective services alert. A protective services alert is requested by contacting the CPS Programs Unit after diligent, yet unsuccessful efforts were made to locate the family, when:

(1) a report indicates the child's safety is or will be at risk;

- (2) it appears the family relocated within Oklahoma or to another state; and
- (3) the child and family's address and whereabouts are unknown; or
- (4) the child was abducted from OKDHS custody; or
- (5) the CW specialist is aware of a pregnancy involving a mother or father who is a party to an open permanency planning case and the whereabouts of the mother or father are unknown.

15. Child who left Oklahoma. When a child, for whom emergency custody or a pick-up order was requested, left Oklahoma prior to the order's execution, ~~enforcement of the other state enforces the custody order and recognition of recognizes Oklahoma's jurisdiction by the other state must occur~~ to have the child returned. Each situation is treated according to the laws and procedures of the state where the child is located.

(1) When the child's location is unknown, the:

(A) CW specialist:

- (i) contacts the CPS Programs Unit to issue a protective service alert;
- (ii) immediately staffs with the CW supervisor to determine if national search efforts will be initiated;
- (iii) when it is decided that a national search will be initiated, completes Form 04MP026E, Abducted Child Report, within one- business day of the staffing with his or her supervisor. An incomplete form delays the report to National Center for Missing and Exploited Children (NCMEC);
- (iv) immediately emails completed Form 04MP026E to the CW supervisor for review and approval. Upon approval, the CW supervisor emails Form 04MP026E to the district director to report the missing child; and
- (v) follows the National Center Information Center reporting guidance, per OAC 340:75-6-48.3; and

(B) district director reports the missing child to NCMEC.

(2) When the child's location is known, the CW specialist with the information about the allegations and investigation contacts the CPS agency in the county or state where the child is located, and sends a copy of the pick-up or emergency custody order to the CPS agency along with other requested written documentation. Information may be shared with another CPS agency under these circumstances.

(3) Some CPS agencies, based on the information received, will enforce Oklahoma's order by taking the child who is in danger into custody.

(4) When the child is taken into custody, the court of jurisdiction in Oklahoma is notified that based on the information and Oklahoma's order, the child was taken into custody in the other state or jurisdiction. Oklahoma CWS staff secures a court order from the other state or jurisdiction releasing the child to OKDHS custody in order to return him or her to Oklahoma.

(5) When a CPS agency is unwilling or unable to assist, Oklahoma law enforcement is contacted and the Oklahoma court order is faxed to the law enforcement entity where the child is located.

(6) The Oklahoma judge and DA are notified when the CPS agency or law enforcement in the other state or jurisdiction is unwilling or unable to assist. In

some circumstances, the judge or DA may contact the court or law enforcement in the other state or jurisdiction for assistance.

#### **PART 4. SPECIALIZED INVESTIGATIVE PROTOCOLS, CHILD DEATH OR NEAR-DEATH REPORTING PROTOCOLS**

##### **340:75-3-400. Reports of child abuse and neglect with specialized protocols ■ 10** Revised 4-9-192-1-22

Reports of child abuse and neglect with specialized protocols considered for acceptance for assessment or investigation include, but are not limited to, reports:

- (1) from Child Protective Services (CPS) regarding an Oklahoma Department of Human Services (~~DHS~~) (OKDHS) employee; ■ 1
- (2) of abuse or neglect of a child in an active permanency planning or family-centered services (FCS) case; ■ 2
- (3) regarding a child whose address is confidential per the Address Confidentiality Program (ACP) per Section 60.14 of Title 22 of the Oklahoma Statutes (22 O.S. § 60.14); ■ 3
- (4) regarding Indian children; ■ 4
- (5) regarding children in out-of-home care; ■ 5
- (6) of abuse or neglect in a child care program or home; ■ 6
- (7) of abuse or neglect by someone other than the person responsible for the child's (PRFC) health, safety, or welfare per 10A O.S. § 1-2-102.

(A) ~~DHS~~ OKDHS makes a referral, verbally or in writing, to the appropriate law enforcement jurisdiction for the purpose of conducting a possible criminal investigation when, upon receipt of a report alleging abuse or neglect, or during the assessment or investigation, ~~DHS~~ OKDHS determines the alleged:

- (i) perpetrator is someone other than a PRFC; and
- (ii) abuse or neglect of the child does not appear to be attributable to failure on the part of a PRFC to provide protection for the child.

(B) After making the referral to the appropriate law enforcement jurisdiction, ~~DHS~~ OKDHS is not responsible for further investigation unless:

- (i) ~~DHS~~ OKDHS has reason to believe the alleged perpetrator is a parent or PRFC of another child, not the subject of the criminal investigation, ~~or is a PRFC of another child;~~
- (ii) notice is received from an appropriate law enforcement jurisdiction that it determined the alleged perpetrator is a parent or PRFC of, ~~or a PRFC of~~ another child, not the subject of the criminal investigation; or
- (iii) the appropriate law enforcement jurisdiction requests ~~DHS~~ OKDHS participate in the investigation. When funds and personnel are available, as determined by the ~~DHS~~ OKDHS Director or designee, ~~DHS~~ OKDHS may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse; ■ 7

(8) resulting from judicial proceedings.

(A) When a report of child abuse or neglect resulting from court proceedings concerning child custody or visitation family time is received, the CPS assessment or investigation protocol and the provisions of 10A O.S. § 1-4-102 are followed.

The assessment or investigation is completed within 30-calendar days of the referral date. Upon completion, ~~DHS~~ OKDHS:

- (i) submits an assessment or investigation report to the district attorney's office;
- (ii) provides a copy of the report to the referring court; and
- (iii) notifies the parties to the proceeding of the report's submission to the court.

(B) When the evidence in a court proceeding concerning child custody or ~~visitation~~ family time results in placing the child into ~~DHS~~ OKDHS emergency custody by the referring court, the provisions of 10A O.S. § 1-4-203 apply.

(C) Per 22 O.S. § 20, when a judge finds a defendant subject to incarceration is the sole custodian of a minor child and has not made safe and appropriate arrangements for the child's care, the court makes a referral to ~~DHS~~ OKDHS. The report is assigned for assessment or investigation; ■ 8

(9) of relinquishment of a child ~~seven~~ 30-calendar days of age ~~or~~ and younger to ~~DHS~~ OKDHS.

(A) ~~DHS~~ OKDHS, without court order, takes possession of a child ~~seven~~ 30-calendar days of age ~~or~~ and younger, when a parent voluntarily delivers and relinquishes a child to the child protective services agency, and expresses an intent not to return for the child, per 10A O.S. § 1-2-109. At the parent's request, ~~DHS~~ OKDHS respects the parent's desire to remain anonymous. ~~DHS~~ OKDHS may:

- (i) request, but not demand, information the parent is willing to share about the child, including details of the child's ~~and/or~~ or parent's relevant medical histories; and
- (ii) provide the parent with printed information regarding the parent's rights with respect to reunification with the child and counseling sources for the parents.

(B) When a child is relinquished to ~~DHS~~ OKDHS, ~~DHS~~ OKDHS:

- (i) performs<sub>1</sub> or provides for the performance of<sub>1</sub> any act necessary to protect the child's health or safety; and
- (ii) immediately checks with the appropriate law enforcement jurisdiction to determine if a child was reported missing and if the missing child is the relinquished child; ■ 9

(10) involving child victims of human trafficking. Per 21 O.S. § 748.2, when law enforcement determines a child may be a victim of human trafficking, ~~DHS~~ OKDHS initiates a joint investigation with law enforcement. A law enforcement entity, or district court, juvenile bureau, or the Office of Juvenile Affairs employee, who has reasonable suspicion that a child may be a victim of human trafficking and is in need of immediate protection<sub>1</sub>, assumes protective custody over the child and immediately notifies ~~DHS~~ OKDHS. The child victim is transferred to ~~DHS~~ OKDHS emergency custody, per 10A O.S. § 1-4-201; ■ 11 and

(11) involving children of active duty military parent(s) or legal guardian(s), per 10A O.S. § 1-2-102.

(A) ~~DHS~~ OKDHS inquires, during the course of an assessment or an investigation, if a child's parent or legal guardian is an active duty service member of the military or the spouse of an active duty service member.

(B) ~~DHS~~ OKDHS notifies the designated federal authorities at the federal military installation where the active duty service member is assigned when ~~DHS~~ OKDHS receives a report that a child may be abused, neglected, or drug-endangered.

(C) Upon completion of the assessment or the investigation, ~~DHS~~ OKDHS forwards Form 04KI003E, Report to District Attorney, or Form 04KI030E, Assessment of Child Safety, to the appropriate military law enforcement entity. ■

12

## **INSTRUCTIONS TO STAFF 340:75-3-400**

**Revised ~~9-15-202~~-1-22**

- 1. Child protective services (CPS) reports regarding an Oklahoma Human Services (OKDHS) employee. Specific procedures are followed when a report of child abuse or neglect is received involving a an OKDHS employee or a member of the employee's immediate or extended family with the exception of alleged abuse in an institution.**
  - (1) A Child Welfare Services (CWS) child welfare (CW) specialist from another district or region is assigned the assessment or investigation:**
    - (A) to avoid potential conflicts of interest when there is close proximity between the CWS office and work location of the OKDHS employee; or**
    - (B) when the CW specialist is acquainted with the OKDHS employee or the employee's family.**
  - (2) When a report alleges serious physical or sexual abuse by CWS staff, the local district attorney (DA) is consulted to determine the most objective course of investigation.**
  - (3) OKDHS Child Abuse and Neglect Hotline (Hotline) personnel contact the regional deputy director regarding the accepted report's assignment.**
  - (4) All case information related to the assessment or investigation is restricted in KIDS.**
- 2. Reports of child abuse, neglect, or injury in an open permanency planning (PP) case, including trial reunification, Interstate Compact on the Placement of Children (ICPC), or Family-Centered Services (FCS) case.**
  - (1) When abuse or neglect of a child, who is part of an open PP, trial reunification, ICPC, or FCS case, is suspected, or when the child has evidence of any abuse or neglect, per Oklahoma Administrative Code (OAC) 340:75-3-130, 340:75-4-12.1, and 340:75-6-88, the information is reported to the Hotline and documented on Form 04KI001E, Referral Information Report.**
  - (2) When the report meets acceptance criteria, per OAC 340:75-3-130, the report is assigned for investigation and is assigned to a CW specialist who ~~does is not have assignment~~ assigned to the open PP, trial reunification, ICPC, or FCS case.**
- 3. Reports regarding a child whose address is confidential per the Address Confidentiality Program, per OAC 340:75-1-30. Reports regarding child abuse and neglect that fall within the CPS scope are accepted for assessment or investigation even when the actual finding address of the child is confidential, per Section 60.14 of Title 22 of the Oklahoma Statutes (22 O.S. § 60.14).**

4. Reports regarding Indian children. To ensure compliance with the Indian Child Welfare Act (ICWA), procedures, per OAC 340:75-19-9 and 340:75-19-10, are followed for all children reported or determined to be an Indian child.
5. Reports of child abuse or neglect, or a violation of OKDHS rules in out-of-home care.
  - (1) When a report regarding a foster or trial adoptive home is received, the report is documented and evaluated to determine if the allegations indicate abuse or neglect, or a violation of OKDHS rules. Reports of abuse or neglect of a child in a foster or trial adoptive home is are documented on Form 04KI001E.
  - (2) When information in the report indicates a rule violation occurred, the report is screened out and notification is sent to the home's assigned resource specialist to address the violation.
  - (3) Reports that meet criteria for acceptance involving a child in an above foster care setting are directed to the Office of Client Advocacy inbox for assignment.
  - (4) A referral is made to the appropriate law enforcement jurisdiction, when a report of child abuse or neglect is received regarding a child in a foster or trial adoptive home that identifies the alleged perpetrator as a person not responsible for the child. A preliminary inquiry is conducted to determine if the foster or trial adoptive parent failed to protect the child from a high-risk situation that he or she had knowledge of or could have predicted.
  - (5) All investigations regarding a foster or trial adoptive parent are assigned as Priority I.
    - (A) When information indicates the child's safety can be ensured without an immediate investigation, the Hotline supervisor may assign the report as a Priority II with a response time of no more than five-calendar days for investigation initiation.
    - (B) The Hotline supervisor documents the reason the report was not assigned as a Priority I on Form 04KI001E.
6. Reports of abuse or neglect in child care programs or homes.
  - (1) Reports of physical abuse, sexual abuse, or serious neglect in child care programs or homes, licensed or unlicensed, are investigated by a CWS CPS specialist.
    - (A) All accepted child care program and home reports are assigned as investigations.
    - (B) The response time for an investigation initiation pertaining to child care programs depends on whether the alleged perpetrator is employed, resides in the home, or continues to care for or have access to children.
    - (C) Accepted reports pertaining to child care homes are assigned a Priority I response time for investigation initiation because the ~~owner/operator~~ owner or operator is generally the employee with continuing access to children.
  - (2) Allegations of general neglect and violations of licensing laws and regulations, such as a dirty facility, unsupervised children, or other similar situations are referred to and addressed by Child Care Services (CCS).

7. Reports of child abuse or neglect alleging someone other than the person responsible for a child's (PRFC) health, safety, or welfare is the perpetrator.
- (1) When a reporter makes an allegation of abuse or neglect perpetrated by someone other than a PRFC, a preliminary inquiry, assessment, or investigation may be conducted to determine if the alleged abuse or neglect is attributable to failure on the part of a PRFC to provide protection.
- (A) A determination is made when the third-party perpetrator resides with a child who may be unsafe due to the alleged perpetrator's actions.
- (B) A separate referral is completed and assigned for CPS assessment or investigation when information indicates a child is at risk of harm.
- (2) A referral is entered into KIDS when it is unknown whether the alleged abuse or neglect of a child by a third-party relative is attributable to failure on the part of the PRFC to provide protection for the child. A third-party assessment or investigation that meets criteria for assignment consists of:
- (A) documenting report information on Form 04KI001E;
- (B) determining if the third-party perpetrator lives with or has a child who is at risk;
- (C) completing Form 04KI001E, relating to the alleged perpetrator and the perpetrator's own child, when appropriate;
- (D) verbally notifying the appropriate law enforcement jurisdiction of the report of abuse or neglect by someone other than the PRFC; and
- (E) deleting the reporter's name and forwarding Forms 04KI001E and 04CP002E, Notification to Law Enforcement Agency of Child Abuse or Neglect Report, to the appropriate law enforcement jurisdiction. The reporter's name is maintained on the copy that remains in the OKDHS file ensuring the information may be provided verbally to the appropriate law enforcement jurisdiction, when requested.
- (3) Examples of the potential need for a third-party assessment or investigation include, but are not limited to, when a:
- (A) child is allegedly abused by a temporary baby-sitter who is a close friend of the child's mother or father. While the baby-sitter is an alleged third-party perpetrator, the close friendship between the mother or father and the alleged perpetrator may indicate the need to conduct an assessment or investigation to determine if:
- (i) the PRFC failed to protect the child; and
- (ii) there will be ongoing protection for the child; or
- (B) child's grandparent, who does not live in the child's home, allegedly sexually abused the child. While the grandparent is a third-party perpetrator, the close relative relationship may indicate the need to conduct an assessment or investigation to determine if:
- (i) the PRFC failed to protect the child; and
- (ii) there will be ongoing protection for the child.
- (4) After OKDHS staff makes a referral to law enforcement of alleging a non-PRFC's alleged non-PRFC involvement in a potential crime, OKDHS is not responsible for further investigation, unless OKDHS staff receives a request from law enforcement that OKDHS participate in the criminal investigation

of a crime against a child. When funds and personnel are available, and at the district director's discretion, OKDHS staff may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse.

**8. Reports resulting from judicial proceedings.**

(1) When a referring court makes a report of child abuse or neglect ~~is made by a referring court~~ resulting from a child custody or visitation family time proceeding, the report is accepted for investigation.

(A) When evidence in a court proceeding concerning child custody or visitation family time indicates a child may be a victim of abuse or neglect, the court makes a report to OKDHS for assignment as an investigation.

(B) When evidence in a court proceeding concerning child custody or visitation family time indicates a child is in surroundings that endanger the child's welfare, the court may enter an order placing the child in OKDHS emergency custody, at which time the provisions of the Oklahoma Children's Code apply.

(2) When any defendant sentenced to incarceration has sole custody of a minor child and has not made appropriate arrangements for the care of the child during the period of incarceration, the court makes a referral to OKDHS by contacting the Hotline.

(3) Any court presiding over any proceeding may report allegations of child abuse or neglect to OKDHS for assignment as an investigation.

(4) Judicial reports are not screened out except with the referring court's permission.

**9. Abandoned or relinquished newborn.** When a parent is reported to have abandoned or relinquished a newborn, a report is provided to the Hotline, documented on Form 04KI001E, and assigned for investigation. When the abandoned newborn's name and birth date is unknown, his or her:

(1) first name is selected by the CW specialist and entered in KIDS;

(2) last name is entered as XOXO in KIDS; and

(3) birth date is entered as the 15th day of birth month.

**10. Infants born to incarcerated mothers, Erica's rule.** When OKDHS receives a report concerning a pregnant inmate in the custody of the Oklahoma Department of Corrections (DOC) prior to the birth of the child, the report is screened out and referred to CWS CPS Programs staff:

(1) CWS staff contacts DOC to arrange a CWS consultation with the inmate. With the inmate's consent, consultation occurs at the correctional facility or by phone to assist in identifying appropriate caregivers when the inmate is expected to remain in custody after the birth of her child.

(A) Upon contact with the inmate, the CWS staff obtains the names of potential caregivers for the unborn child and follows the protocol outlined in (2) of this Instruction.

(B) When the inmate declines to consult with CWS staff, the:

(i) inmate's decision to decline is documented in the KIDS Case Contacts associated with the screened-out referral; and

(ii) hospital utilized by DOC for the child's birth is notified of the inmate's decision to decline services. CWS staff requests that the

hospital call the OKDHS Abuse and Neglect Hotline when the child is born.

(2) CWS staff performs a records search of the potential caregivers identified by the inmate.

(A) The search includes:

- (i) the Oklahoma State Courts Network;
- (ii) On Demand Court Records;
- (iii) Oklahoma Department of Corrections records;
- (iv) the Sexual Offender Registry; and
- (v) the Violent Offender Registry.

(B) CWS staff performs a search of the Child Abuse and Neglect Information System known as KIDS.

(C) CWS staff documents the search results in the KIDS case associated with the screened-out referral.

(3) When the OKDHS Abuse and Neglect Hotline receives a report ~~is received by the OKDHS Abuse and Neglect Hotline~~ that the inmate has given birth, results of the services provided and information obtained related to the caregivers identified by the inmate are made available to the CWS staff to assist in determining the appropriate response to the report, per OAC 340:75-3-130.

(A) Upon the report of the birth of the child, when the inmate previously consulted with CWS staff regarding potential caregivers:

- (i) CWS staff verifies with hospital staff that the caretaker's identification results provided by the inmate to hospital staff, matches the identification previously provided to CWS staff.
- (ii) CWS staff documents in the referral contact screen, and notifies hospital staff that a response to the report, per OAC 340:75-3-130, was completed and associate this screened-out referral to the previous case in KIDS.

(B) When the inmate previously declined the consultation with CWS staff, or the caregiver identified to the hospital staff does not match the name previously provided to CWS staff, the protocol outlined in (2)(A) and (B) of this Instruction ~~(A) and (B)~~ is followed in order to determine the appropriate response to the report, per OAC 340:75-3-130.

11. Child victims of human trafficking. OKDHS is responsible for investigating reports that a child may be a victim of human trafficking, per 21 O.S. § 748.2.

(1) When OKDHS receives a report stating a child may be a victim of human trafficking, a:

(A) Priority 1 response is required;

(B) joint investigation is conducted with law enforcement, per OAC 340:75-3-110, and may involve coordination with other states, when the child is not an Oklahoma resident;

(C) court order for emergency custody of the child is requested as soon as possible;

- (D) plan is made for the child's immediate behavioral and medical health ~~and medical~~ treatment upon confirmation that a court placed the child in OKDHS emergency custody; and
- (E) notification of the report is made to the CPS Programs Unit.
- (2) When the child is found to be a resident of, or in the custody of, another state, the CW specialist:
- (A) contacts the other state immediately to notify them of the child's whereabouts and alleged involvement in human trafficking;
- (B) coordinates the child's transfer to his or her home state with local CPS office staff or the child's parent or legal guardian, when appropriate; and
- (C) consults with the district director on where the child will be placed while awaiting transfer. Crisis-stabilization centers are not appropriate for use as placement while awaiting transportation to the child's home state.
- (3) Protocol for child victims of human trafficking.
- (A) During the investigation process:
- (i) the child may be transported to a facility appropriate to address the victim's behavioral and medical health needs upon placement with OKDHS;
- (ii) prior to transporting the child, the CW specialist contacts the facility to ensure the child meets admission criteria and the facility has a bed for the child; and
- (iii) in the event the CW specialist cannot find a facility appropriate for the victim's behavioral and medical health needs, the CW specialist contacts the district director for assistance with additional placement options, including facilities for in-patient evaluation, when circumstances warrant.
- (B) A child victim of human trafficking may be released to the custody of a parent or legal guardian when OKDHS can determine the child victim will not be subjected to further exploitation.
- (C) Child victims of human trafficking, due to their status as crime victims, are placed in appropriate facilities, per 21 O.S. § 748.2. Placement in youth or children's shelters is discouraged due to concern for the safety of the other children in the shelter and the flight risk the human trafficking victim may pose.
- (D) An emergency custody (show cause) hearing is conducted, per 10A O.S. § 1-4-203 and OAC 340:75-3-300.
- (i) When it is shown at the emergency custody (show cause) hearing that the child is likely a victim of human trafficking, the associated criminal charges, when any, are dismissed.
- (ii) When the DA's office timely files a petition alleging the child to be deprived, the child remains in OKDHS emergency custody pending further disposition of the case in the deprived child proceeding.
- (E) When it is determined, after consultation with the DA's office, the child is not a victim of human trafficking, an immediate notification is made to the appropriate law enforcement jurisdiction for further disposition, and

the CW investigation is completed. Unless a deprived petition is timely filed, the emergency custody order expires, per 10A O.S. § 1-4-205 and OKDHS no longer has legal custody of the child.

(F) In order to protect the child victim of human trafficking, all information regarding the child, the child's family, and others involved with the child, as well as identities of suspected human traffickers, must be treated as highly confidential. Extreme caution is taken and consultation with the appropriate district director and the DA's office occurs prior to the inclusion of any information into the court record that could compromise the safety of the child victim.

**12. Active military families.** Upon initiation of an assessment or investigation, OKDHS must inquire as to the military status of all parents or legal guardians.

(1) OKDHS contacts a United States (U.S.) Department of Defense Family Advocacy Program (FAP) upon learning of a family's active military status and informs FAP of the report.

(2) OKDHS works with FAP to ensure Form 04KI030E or Form 04KI003E is forwarded to the appropriate military law enforcement entity per the memorandum of understanding (MOU).

(3) OKDHS may contact a local military installation for contact information regarding federal military bases overseas when a parent or legal guardian is stationed outside of the U.S.

## **PART 5. INVESTIGATIVE FINDINGS AND APPEALS**

**340:75-3-520. Closure of the child protective services assessment or investigation**  
Issued 7-1-13 Revised 2-1-22

(a) **Determination of prevention and intervention-related services.** Pursuant to ~~Per~~ Section 1-2-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-105), Oklahoma Department of Human Services (OKDHS), where appropriate and ~~in~~ at its discretion, identifies prevention and intervention-related services available in the community and arranges for services to be provided to the family when an assessment or investigation indicates the family would benefit from services or OKDHS may provide services directly.

(1) Attempts to provide, refer, or arrange voluntary services are documented in the OKDHS record.

(2) OKDHS determines within 60-calendar days whether the family has accessed services directly related to the child's safety.

(3) When the family refuses voluntary services or does not access services directly related to the child's safety, and ~~it is determined by~~ OKDHS determines that the child's surroundings endanger the child's health, safety, or welfare, OKDHS may recommend the child be placed in protective or emergency custody, or that a petition be filed. ■

1

(b) **Notification of assessment conclusion or investigative finding to person responsible for the child (PRFC).**

(1) Following completion of the assessment, OKDHS notifies each PRFC of the conclusion. ■ 2 & 4

(2) Following completion of the investigation, OKDHS notifies each PRFC of any findings pertaining to the PRFC. ■ 3 & 4

(c) **Disclosure of information to reporter of child abuse or neglect.** Per 10A O.S. § 1-6-102, OKDHS may summarize the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect, or to any person providing services to a child who is, or is alleged to be, a victim of child abuse or neglect.

(d) **Disclosure of findings or conclusions and other information to persons or agencies providing professional services.**

(1) Pursuant to ~~Per~~ 10A O.S. § 1-2-107, OKDHS may provide information to a person or agency that provides professional services, such as medical examination of, or therapeutic intervention with, a victim of abuse or neglect. This information may include, but is not limited to the:

(A) ~~the~~ investigative determination; or

(B) ~~the~~ services offered and provided.

(2) OKDHS forwards information, including the investigative determination, the services offered or provided, and such other information deemed necessary by OKDHS, to any hospital or any physician including, but not limited to, doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, reporting the abuse or neglect of a child, per 10A O.S. § 1-2-101, ~~information including the investigative determination, the services offered or provided, and such other information deemed necessary by OKDHS.~~ The information is entered and maintained in the child's medical record. ■ 5

**(e) Notification to Child Care Services (CCS) of a substantiated finding of heinous and shocking abuse by a PRFC.**

(1) Child Welfare Services (CWS) is responsible for notifying CCS upon completion of a program review when a finding of heinous and shocking abuse is substantiated.

(2) CCS notifies a child care facility owner or operator and the child care resource and referral organization in writing immediately or not later than one-business day after CWS substantiates a finding of heinous and shocking abuse is substantiated on by a PRFC by CWS, per 10 O.S. § 406. ■ 6

## **INSTRUCTIONS TO STAFF 340:75-3-520**

**Revised ~~9-15-202-1-22~~**

### **1. Determination of prevention and intervention-related services.**

(1) When voluntary services are recommended, the child welfare (CW) specialist documents the attempts to provide, refer, or arrange for the provision of voluntary services in the Investigation Contacts screen in KIDS, ~~the attempts to provide, refer, or arrange for the provision of voluntary services.~~

(2) Within 60-calendar days of the approval of the KIDS assessment or Form 04KI003E, Report to District Attorney, a contact entitled "Services Follow-up," is entered in the Investigation Contacts screen in KIDS in the closed case, ~~documenting after.~~ After verifying with the person(s) responsible for the child (PRFC) and service provider, the CW specialist documents whether the family voluntarily accessed recommended services directly related to

child safety when allegations of abuse or neglect are substantiated. Examples of a "services follow-up" include, but are not limited to, contacting the:

- (A) parent education program the family was referred to, obtaining information related to the:
    - (i) family's attendance;<sub>i</sub>
    - (ii) progression in services, ~~and~~<sub>i</sub>
    - (iii) ~~the impact of the services on the family dynamics;~~<sub>i</sub> and the
    - (iv) child's functioning and safety;
  - (B) mental health provider the PRFC was referred to, obtaining information related to ~~the PRFC's~~<sub>i</sub>:
    - (i) PRFC's progress in treatment;<sub>i</sub>
    - (ii) PRFC's current treatment needs;<sub>i</sub> and
    - (iii) how the PRFC's functioning impacts the child's functioning and safety;
  - (C) medical professional responsible for the child's ongoing or specialty medical care, obtaining information regarding:
    - (i) the child's required medical care and treatment needs;<sub>i</sub>
    - (ii) the PRFC's follow-up with the child's medical care;<sub>i</sub>
    - (iii) the PRFC's ability to meet the child's medical needs on a consistent basis;<sub>i</sub> and
    - (iv) how this information impacts the child's functioning and safety;
  - (D) substance abuse program the PRFC was referred to, obtaining information about ~~the PRFC's~~<sub>i</sub>:
    - (i) ~~the PRFC's~~ progress in treatment;<sub>i</sub>
    - (ii) current substance use and impact on the PRFC's functioning;<sub>i</sub> and
    - (iii) how this information impacts the child's functioning and safety;and
  - (E) PRFC to obtain information regarding:
    - (i) progress in the recommended services;<sub>i</sub>
    - (ii) how the services are impacting the household's dynamics and functioning;<sub>i</sub> and
    - (iii) if further referrals to community service providers are requested.
- (3) When the family refuses voluntary services<sub>i</sub> or does not access services directly related to child safety<sub>i</sub> and it is determined the child's surroundings endanger the child's health, safety, or welfare, the CW specialist consults the CW supervisor to determine if a recommendation is made to place the child in protective or emergency custody or that a petition be filed.
- (4) When an emergency or temporary guardianship was obtained during the Child Protective Services (CPS) assessment or investigation<sub>i</sub> and when the family refuses voluntary services or does not access services directly related to child safety, the CW specialist verifies within 60-calendar days after closure of the CPS assessment or investigation if the guardianship was continued or dissolved. When the guardianship was dissolved, and it is determined the child's surroundings endanger the child's healthy, safety, or welfare, the CW specialist consults the CW supervisor to determine if a

recommendation is made to place the child in protective or emergency custody or that a petition be filed.

2. Notification of assessment conclusion. Following completion of the assessment, the CW specialist notifies each PRFC of the conclusion. The CW specialist mails each PRFC Form 04KI021E, Notification Regarding Assessment.
3. Notification of investigative finding. Following completion of the investigation, the CW specialist notifies each PRFC of the finding pertaining to each PRFC. The CW specialist mails:
  - (1) Form 04KI019E, Notification Concerning Finding(s) of Child Abuse/Neglect, to each PRFC;
  - (2) each PRFC Form 04KI019E for in-home investigations. Refer to Oklahoma Administrative Code 340:75-3-410 and 340:75-3-420 for out-of-home investigative findings and notification to PRFCs; and
  - (3) Form 04KI019E to the child care program employee's home.
4. When closure with PRFC or family not required. Closure with the PRFC or family may be circumvented when there is reason to believe it may place the child or CW specialist in danger or when the PRFC cannot be located.
5. Disclosure of information to reporter of child abuse or neglect or to persons or agencies providing professional services. Oklahoma Human Services (OKDHS) may summarize the outcome of an investigation to the person who reported a known or suspected instance of child abuse or neglect or to any person providing services to a child who is or is alleged to be a victim of child abuse. The reporter is also told:
  - (1) the assessment or investigation specifics cannot be disclosed;
  - (2) the assessment or investigation was completed;
  - (3) a report of the assessment conclusions or investigative findings was forwarded to the district attorney's office, per Oklahoma Statutes; and
  - (4) a completed assessment or investigation does not preclude future assessments or investigations when new allegations of child abuse or neglect are reported.
6. Heinous and shocking finding of abuse. When OKDHS makes a recommendation for a finding of shocking and heinous abuse to a PRFC:
  - (1) the CW specialist notifies the CPS Programs office upon the closure of an investigation with a finding of heinous and shocking abuse;
  - (2) CPS Programs conducts a program review to determine if the finding is correct per policy;
  - (3) CPS Programs adds the PRFC(s)' name with a finding of heinous and shocking abuse to a centralized location; and
  - (4) CPS Programs is then responsible for providing the PRFC(s)' name to Child Care Services within one-business day of the program review's completion.

**340:75-3-530. Appeal process for substantiated findings of child abuse or neglect**

■ 4 & 7

Revised 9-15-202-1-22

(a) **Purpose.** The Child Abuse Prevention and Treatment Act (CAPTA), Section 5101 et seq. of Title 42 of the United States Code, requires the Oklahoma Department of Human Services (~~DHS~~) (OKDHS) to provide an appeal process for persons who disagree with a substantiated finding of child abuse or neglect. The appeal process:

- (1) provides individuals with a substantiated finding of child abuse or neglect an opportunity for due process;
- (2) serves as a quality assurance mechanism to assess findings compliance with child protective services (CPS) standards, per Oklahoma Administrative Code (OAC) 340:75-3-120 and 340:75-3-130; and
- (3) provides substantiated findings review by Child Welfare Services (CWS) personnel not involved in any other stage of the case.

(b) **Eligibility criteria.**

- (1) An individual may be eligible to request an appeal when the individual is a person responsible for the child's (PRFC) health, safety, or welfare, per OAC 340:75-3-120, in an investigation involving abuse or neglect allegations and the investigation results in a substantiated finding regarding the PRFC.
- (2) An eligible individual may request a review through the appeal process when:
  - (A) no deprived petition is filed; or
  - (B) a deprived petition is filed and the court case is dismissed prior to adjudication.
- (3) An individual meeting the requirements in (1) and (2) of this subsection is not eligible for a review through the appeal process when:
  - (A) other court action is filed or a court order is issued concerning the alleged child abuse or neglect including, but not limited to:
    - (i) permanent protective orders issued against the PRFC that include the alleged child victim(s); or
    - (ii) pending or concluded criminal court proceedings; or
  - (B) another ~~DHS~~ OKDHS program-specific review is pending or was conducted including, but not limited to:
    - (i) a child death or near-death; or
    - (ii) any substantiated finding of an out-of-home care investigation completed by a child welfare (CW) specialist or an Office of Client Advocacy investigator.

(c) **Tribal investigations not eligible for ~~DHS~~ OKDHS appeal process.** The ~~DHS~~ OKDHS appeal process applies only to ~~DHS-conducted~~ OKDHS-conducted investigations. Child abuse or neglect investigations by a tribal representative or on tribal land are not eligible for the ~~DHS~~ OKDHS appeal process.

(d) **Appeal process procedures.** Appeal process procedures are outlined in (1) through (4) of this subsection.

- (1) **PRFC notification.** Upon substantiation of abuse, neglect, or both, the CW specialist notifies the PRFC of the finding by ~~mailing~~ sending Forms 04KI019E, Notification Concerning Finding(s) of Child Abuse/Neglect, and 04KI020E, Request for Appeal of Substantiated Findings of Child Abuse or Neglect, provided the criteria in this Section are met. Forms 04KI019E and 04KI020E are not mailed to the PRFC when case records reflect notification may place family members at risk ■ 2. When sent, Forms 04KI019E and 04KI020E are:

- (A) mailed to last known address within 10-calendar days of substantiation of abuse or neglect; or

(B) mailed sent secure to the PRFC's last known address individually owned and operated personal email address that is not shared with other users within 10-calendar days of abuse or neglect substantiation:

(i) Form 04KI019E informs the PRFC of:

(I) any substantiated child abuse or neglect finding in the investigation; and  
(II) the date of the abuse or neglect referral, allegation, and finding without identifying the reporting party.

(ii) Form 04KI020E specifies:

(I) the PRFC may file an appeal by emailing a request to CWS Appeals Program Unit at CWS.AppealsProgramReview@okdhs.org within 15-calendar days from the postmark on the envelope containing Form 04KI020E; or

(II) mailing the PRFC may mail a request to CWS Appeals Program Unit within 15-calendar days from the postmark on the envelope containing Form 04KI020E; and

~~(H)~~(III) failure to submit the appeal request within 15-calendar days from the postmark on the envelope containing Form 04KI020E results in the finding becoming final, and the PRFC waives any right to appeal this finding in the future, unless good cause is established per this Section; ~~and~~ **■ 1**

~~(C) not mailed to the PRFC when case records reflect notification may place family members at risk. **■ 2**~~

(2) **Conditions of good cause.** A PRFC is granted a review despite failure to make a timely response, provided good cause is established including, but not limited to, severe illness or other disabling condition.

(3) **Response to appeal request from PRFC.** When the PRFC requests a review within the required time, the Appeals Program Unit responds to the PRFC through written notice within 10-calendar days following receipt of the PRFC's request for review. The Appeals Program Unit notifies the PRFC:

(A) of the right to provide additional information through written statements that must be submitted within 30-calendar days from the postmark on the envelope containing the notification that the appeal was accepted for review;

(B) that failure to submit additional information within 30-calendar days results in a waiver of this right, unless good cause is established per this Section; and

(C) that verification of legal representation must be established when the PRFC requests an attorney be notified of the determination results. Verification is established by a statement of representation on the attorney's official letterhead.

**■ 3**

(4) **Review Procedure.** **■ 5** Within 120-calendar days following acceptance of the PRFC's timely request for a review, or a late request for a review when good cause was established per this Section, the CWS Appeals ~~Panel (Panel)~~ Program Unit determines if the substantiated finding of abuse or neglect meets substantiation protocol, per OAC 340:75-3-120.

(A) The decision to uphold, modify, or reverse the original finding of abuse or neglect is determined by reviewing:

- (i) Form 04KI003E, Report to District Attorney, that includes Form 04KI030E, Assessment of Child Safety, attachments, and relevant CWS information including ~~child welfare (CW)~~ history and referrals; and
  - (ii) all written documents submitted by the PRFC.
- (B) ~~When Per OAC 340:75-3-120, the Appeals Program Unit determines the finding failed to meet the criteria for substantiation, per OAC 340:75-3-120, the Panel determines if the preliminary decision by the Appeals Program Unit based upon a lack of:~~
- (i) ~~was based upon a lack of~~ credible evidence to support the allegations of child abuse, neglect, or both; or
  - (ii) ~~is based upon a lack of~~ documentation by the CW specialist.
    - (I) When a lack of documentation exists, the Appeals Program Unit sends notification to the district director, approving supervisor, and CW specialist that information is missing and requests the information be added to the report or scanned into the KIDS File Cabinet document management system.
    - (II) After notification by the Appeals Program Unit, the district director reopens and reassigns the investigation.
    - (III) The assigned CW specialist adds the additional information to the report within 15-calendar days of the reassignment and sends notification to the Appeals Program Unit when completed.
    - (IV) The Appeals Program Unit reconsiders the PRFC's appeal with the additional information and upholds, modifies, or reverses the finding as appropriate.
- (C) The Appeals Program Unit enters a modified finding in KIDS, when appropriate.
- (i) When the substantiation finding is appropriate, but the allegation in KIDS is incorrect, the ~~Panel chairperson~~ Appeals Program Unit ensures the inappropriate allegation is marked as an improper entry and the correct allegation is added with the substantiated finding.
  - (ii) Forms 04KI019E, Notification Concerning Finding(s) of Child Abuse/Neglect, and 04KI020E, Request for Appeal of Substantiated Findings of Child Abuse or Neglect, are mailed to the PRFC with the corrected allegations with the substantiated finding.
- (D) The Appeals Program Unit provides written notification or secure email notification to the personal email address individually owned and operated by the PRFC and not shared with other users of the final determination of the finding within 120-calendar days following acceptance of the PRFC's request for a review to the:
- (i) PRFC who requested the review;
  - (ii) district director;
  - (iii) regional deputy director;
  - (iv) CW supervisor;
  - (v) CW specialist;
  - (vi) tribe, when applicable; and
  - (vii) Child Care Services, when applicable.

(E) When the finding is reversed, the district attorney's office in the ~~country~~ county where the finding originated is notified by district staff. ■ 6

## **INSTRUCTIONS TO STAFF 340:75-3-530**

Revised ~~9-15-202-1-22~~

1. Notification of right to appeal substantiated finding to person responsible for the child's (PRFC) health, safety, or welfare.
  - (1) When to send right to appeal notification to PRFC. After an investigation with a substantiated finding is approved by the child welfare (CW) supervisor, the CW supervisor ensures Forms 04KI019E, Notification Concerning Finding(s) of Child Abuse/Neglect, and 04KI020E, Request for Appeal of Substantiated Findings of Child Abuse or Neglect, are sent within 10-calendar days to each PRFC identified during the investigation.
  - (2) How to send appeal notification to the PRFC. KIDS generates Forms 04KI019E and 04KI020E. The PRFC's address populates to Form 04KI019E designed to display the PRFC's address in a window envelope. Forms 04KI019E and 04KI020E are mailed.
  - (3) When the CW specialist is able to obtain the individually owned and operated personal email address of a PRFC that is not a shared email address, and the PRFC indicates he or she is willing to receive the Form 04KI019E, Notification Concerning Finding(s) of Child Abuse/Neglect, via email instead of mail, the Forms 04KI019E and 04KI020E can be emailed to the PRFC with the following provisions, the:
    - (A) message is sent via secure email as described by Oklahoma Office of Management and Enterprise Services (OMES);
    - (B) message is sent to the PRFC's email address with a read receipt request; and
    - (C) CW specialist documents the date and time they receive notice that the email was read as a contact in KIDS in the investigation; and
  - (4) Email correspondence is not authorized for shared email accounts or professional or work email accounts. When the client does not have a personal email address that the PRFC alone monitors, the forms are sent by mail.
2. Justification for not providing appeal notification. Justification for not sending Forms 04KI019E and 04KI020E is documented in KIDS Contacts screens.
3. Response to appeal request from an Oklahoma ~~Department of Human Services (DHS)~~ (OKDHS) employee who was the subject of an investigation. In lieu of a review by the Appeals Program Unit, a ~~DHS~~ an OKDHS employee may request a review by programs staff. A request for review by programs staff is submitted in writing at the time of the appeal request. The review by program staff is comprised of a programs:
  - (1) administrator;
  - (2) manager supervisor; and
  - (3) field representative.
4. Appeal notification to Child Welfare Services (CWS) staff. When the Appeals

Program Unit accepts a PRFC request for review, notification of the acceptance is provided to the CW specialist assigned to the investigation, CW supervisor, district director, and regional deputy director.

5. Review procedures.

(1) The CWS Appeals ~~Panel (Panel) chairperson~~ Program Unit reviews the accepted appeal to determine if the substantiated finding of abuse or neglect meets substantiation protocol, per Oklahoma Administrative Code (OAC) 340:75-3-120.

(A) The ~~Panel chairperson~~ CWS Appeals Program Unit reviews and determines to uphold, modify, or reverse the original finding of abuse or neglect.

(B) When applicable due to the case's complexity, the appeal is reviewed by a ~~Family-Centered Services (FCS) Program Unit~~ Continuous Quality Improvement/Quality Assurance (CQI/QA) program field representative or designee for concurrence.

(C) When there is non-concurrence between the two reviews, the appeal is reviewed by the ~~Panel~~ a CWS program administrator for final recommendation or final determination, per OAC 340:75-3-530.

(D) When the Appeals Program Unit ~~or Panel~~ modifies a finding that is subsequently appealed, the review and determination are made by the ~~FCS~~ a CWS program administrator.

(2) When an appeal determination conducted by the Appeals Program Unit does not concur with the companion in-home appeal determination conducted by Child Protective Services (CPS), per OAC 340:75-3-500 Instructions to Staff, the final decision is made by the ~~FCS~~ CQI/QA and CPS program administrators.

6. Final determination regarding investigation finding.

(1) The Appeals Program Unit notifies the appellant, district director, regional deputy director, CW specialist assigned to the investigation, and CW supervisor, and appropriate programs staff of the final determination regarding if the substantiated finding is upheld, modified, or reversed.

(2) After the final determination is complete, district staff notifies the district attorney when the finding is reversed.

(3) The CW specialist prints the final determination email, files the email in the CWS case record and, when applicable, in the resource record, and scans the email and stores it in the ~~referral file cabinet~~ document management system (DMS).

7. ~~Panel composition~~ Record retention. ~~The Panel is comprised of Sections 1-101 through 1-6-103, 1-6-107, and 1-2-108 of Title 10A of Oklahoma Statutes require:~~

(1) an Appeals Program Unit program field representative who serves as the Panel chairperson records and correspondence to and from the appellant, the appellant's attorney, or both, and original photographs, or black and white copies of photographs, be retained in DMS. The records and correspondence are reviewed on an annual basis with duplicate and ancillary materials destroyed when no longer required for administrative purposes; and

- ~~(2) the CPS Programs Unit programs supervisor or designee;~~
- ~~(3) a Child Care Licensing representative when the appeal is from a child care home or facility; and~~
- ~~(4) other staff the Panel chairperson deems necessary~~ substantive records are retained by OKDHS permanently.

## SUBCHAPTER 4. FAMILY-CENTERED AND COMMUNITY SERVICES

### PART 1. FAMILY-CENTERED SERVICES

**340:75-4-12.1. Family-centered and community-based services** ■ 3 through 11, 13, 16 through 18, & 20 through 28

Revised ~~5-5-21~~2-1-22

(a) **Safety planning.** When a child abuse or neglect investigation is completed, the child welfare (CW) specialist makes determinations that include:

- (1) the investigative finding;
- (2) if the child is safe or unsafe in the home;
- (3) the protective capacities of the person responsible for the child; and
- (4) appropriate ongoing service needs for the family. Ongoing service options include:
  - (A) a determination that no services are needed;
  - (B) a referral for community-based services including Oklahoma Children's Services (OCS); and
  - (C) opening an Oklahoma Human Services (OKDHS) family-centered services (FCS) case. ■ 1

(b) **Safety plan Plan.** The ~~safety plan~~ Safety Plan and service planning include the family's involvement and input. The risk of future maltreatment to the child, safety threats, the family's protective capacities, and the level of need within the family determine the intensity of services required to address concerns within the family. ■ 1

(c) **Family service agreement.** The family service agreement documents the parent or legal guardian's acceptance of CW services and intervention to assist the family to safely care for the child. ■ 2

(d) **Family service agreement informal supports.** With the family's permission, supportive persons, such as kin, extended family members, friends, neighbors, volunteers, tribal representatives, and other culturally-relevant supports may be involved in ~~safety plans~~ Safety Plans and service agreements. Supportive persons who agree to be resources for the family commit to involvement in the safety planning and sign the voluntary ~~safety plan~~ Safety Plan.

(e) **Family meeting (FM).** An FM is a structured, facilitated meeting that includes parents, caregivers, relatives, CW specialists, tribal partners, service providers, and other culturally-relevant supports to collaboratively create plans that address the child's safety, permanency, and well-being. ■ 12

(f) **Family service agreement supports.** Family service agreement supports include programs and professional services, such as culturally-relevant, community-based service programs to assist the family with incorporating new behaviors that support safety. OCS is community-based contracted services authorized by Section 1-9-110 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-110) and per Oklahoma Administrative Code

(OAC) 340:75-1-151. ■ 14 & 15

**(g) Voluntary family care.**

(1) Voluntary family care is available as a preventive and protective service to enhance family functioning without court intervention.

(2) Per 10A O.S. § 1-7-112, when the parent with legal custody requests, OKDHS may accept any child into voluntary family care placement. The parent considering voluntary family care is informed that:

(A) he or she may, at any time, request that OKDHS return the child to the parent;

(B) evidence gathered during the time the child is voluntarily placed may be used at a later time as the basis for a petition alleging the child is deprived or as the basis for a petition seeking termination of parental rights;

(C) of the timelines and procedures for voluntary family care placement;

(D) a period of voluntary family care placement, per 10A O.S. § 1-7-112, does not exceed 90-calendar days, except as otherwise provided by OKDHS policy;

(E) voluntary family care placement, per the conditions and restrictions of 10A O.S. § 1-7-112, does not constitute abandonment, abuse, or neglect as defined in the Oklahoma Children's Code; and

(F) he or she may be assessed the full or partial cost of the voluntary family care placement.

(3) Voluntary family care requires a written agreement signed by the parent or legal guardian and OKDHS wherein authority is given to OKDHS to place the child in family care and provide for the child's needs.

(4) Family care by voluntary request is approved for an initial 30-calendar day period and may extend to a 90-calendar day maximum when the extension results in family reunification without requiring court intervention.

(5) Court intervention is required when voluntary family care reaches a maximum of 90-calendar days and the parent or legal guardian does not accept the child's return.

■ 29

**(h) Protective and preventive child care.** Child care services may be provided to a family when a:

(1) child is at risk of removal from the home due to abuse or neglect; and

(2) family is in the process of reunification, per OAC 340:75-6-91.

**(i) SoonerStart services.** SoonerStart Early Intervention Program (SoonerStart) is a statewide, interagency, multidisciplinary system of services to families with children birth to 36 months with developmental delays. SoonerStart services may be provided to a child who is:

(1) the victim of substantiated abuse or neglect; or

(2) a party in an open FCS case. ■ 19

**(j) Medical or Dental Treatment.** When the parent of a child in a Safety Plan with OKDHS is unavailable, the child's Safety Plan monitor may authorize medical or dental treatment or examinations that are necessary for the child's well-being.

**INSTRUCTIONS TO STAFF 340:75-4-12.1**

**Revised ~~5-5-212-1-22~~**

**1. Safety planning. Refer to Oklahoma Administrative Code (OAC) 340:75-3-300 for child safety evaluation, safety planning, and evaluation and assessment of ~~safety plan~~ Safety Plan monitor(s).**

**(1) A ~~safety plan's~~ Safety Plan's purpose is to control safety threats immediately while the child remains in the home or while the child temporarily stays in an alternative location outside of the home. The ~~safety plan~~ Safety Plan:**

**(A) specifies what safety threats exist, how the safety threshold was crossed, and establishes what must be controlled;**

**(B) identifies how the safety threat will be managed and controlled, including:**

**(i) by whom;**

**(ii) under what circumstances and agreements;**

**(iii) within what time frame; and**

**(iv) the availability, accessibility, and suitability of those involved; and**

**(C) includes how the child welfare (CW) specialist or others monitor and oversee the plan.**

**(2) Engaging kin in safety planning creates more options for support and safety planning. The CW specialist:**

**(A) identifies and talks with as many kin as possible to support the family;**

**(B) engages those who know the child best;**

**(C) facilitates a child safety meeting (CSM); and**

**(D) makes timely decisions, with input from those involved, regarding the child's safety and physical and emotional well-being.**

**(3) In all family-centered services (FCS) cases involving tribal children, the CW specialist must make active efforts to maintain or reunite an Indian child with the family that include, but are not limited to:**

**(A) identifying appropriate services and helping the parents or legal guardian to overcome barriers including actively assisting the parents or legal guardian in obtaining such services;**

**(B) identifying, notifying, and inviting representatives of the Indian child's tribe to participate in all family meetings (FM);**

**(C) conducting a search for the Indian child's extended family members to provide family structure and support;**

**(D) offering and employing all available and culturally-appropriate family preservation strategies;**

**(E) facilitating the use of remedial and rehabilitative services provided by the child's tribe;**

**(F) identifying community resources to assist the family, when appropriate; and**

**(G) considering alternative ways to address the child's and child's family needs when optimum services do not exist or are not available.**

**(4) In cases that involve tribal children in out-of-home ~~safety plans~~ Safety Plans, throughout the duration of the case, the CW specialist must make continuing efforts to:**

- (A) inquire if extended family is available that can help support the child and family; and
  - (B) search for tribal family ~~safety plan~~ Safety Plan monitor(s) when the current ~~safety plan~~ Safety Plan monitor(s) is not a tribal member.
- (5) When an out-of-home ~~safety plan~~ Safety Plan is utilized, a determination must be made on when it is safe to move to an in-home ~~safety plan~~ Safety Plan utilizing the Assessment of Child Safety. The CW specialist and supervisor must consider:
- (A) how manageable the remaining safety threats are;
  - (B) behavioral changes demonstrated by the person responsible for the child (PRFC);
  - (C) the parent's or legal guardian's participation in and progress on the individualized service plan (ISP); and
  - (D) barriers to ISP successful completion and proposed solutions.
- (6) A Safety Plan monitor may seek medical or dental treatment for a child placed in a Safety Plan when:
- (A) the medical or dental care is in the best interest of the child's well-being; and
  - (B) the CW specialist made diligent, good faith efforts to locate and obtain consent from the biological and legal parents or guardians, and one of conditions (i) through (v) is present. The child's parent or guardian:
    - (i) is incapacitated due to a health condition or cognition functioning and is unable to provide consent;
    - (ii) is incarcerated and the CW specialist is unable to obtain the parent's or guardian's consent after diligent good faith attempts with the penal institution;
    - (iii) was admitted to inpatient treatment and after diligent, good faith attempts, the CW specialist is unable to obtain consent;
    - (iv) abandoned the child with the Safety Plan monitor; or
    - (v) is deceased.
2. Family Services Service Agreement (FSA)/Safety Plan. The CW specialist explains Form 04MP078E, Family Services Service Agreement (FSA/Safety Plan) to the parent or legal guardian, and completes the form to document the parent or legal guardian's acceptance of CW services and intervention, agreement to participate in FCS, and initial identification of services.
- (1) A Safety Plan is established with the family in conjunction with Form 04MP078E when:
- (A) the child is found unsafe; and
  - (B) court intervention is:
    - (i) not requested; or
    - (ii) requested but the district attorney (DA) declines to file a deprived petition. An FCS case is appropriate only when the safety threats can be managed. When a DA declines to file a deprived petition, any DA's request for the family to receive FCS must be reviewed with the district director.

**(2) The CW specialist discusses service options with the family and explains that services are:**

- (A) voluntary, unless there is court action;**
- (B) used to address the child's and family's identified needs directly related to the child's safety, permanency, or well-being and to prevent the child from entering foster care; and**
- (C) time-limited to 180-calendar days, except in FCS cases in which Title IV-E prevention services, as specified in the child's prevention plan, are provided to, or on behalf of, a child who is a candidate for foster care, per OAC 340:75-1-9 ITS, limited to up to 12 months.**

**(3) Within seven-business days after the FSA signature date, the CW specialist completes Form 04KI003E, Report to DA, and Form 04KI030E, Assessment of Child Safety (AOCS), and indicates FCS services are recommended on the AOCS services screen in KIDS. Form 04MP078E is signed.**

**(4) Title IV-E child's prevention plan. Form 04MP078E, FSA/Safety Plan:**

**(A) serves as the prevention plan for the child who is eligible for the Title IV-E Prevention Program when the child is:**

- (i) identified as a candidate for foster care, per OAC 340:75-1-9 ITS; and**
- (ii) eligible per OAC 340:75-3-120, 340:75-3-300, and 340:75-3-500; and**

**(B) documents the:**

- (i) child's Title IV-E prevention program eligibility;**
- (ii) child's foster care prevention strategy so the child may remain safely at home, live temporarily with a kin caregiver until reunification can be safely achieved, or live permanently with a kin caregiver;**
- (iii) Title IV-E prevention services rated and approved by the Title IV-E Prevention Services Clearinghouse and identified in the state's five-year Title IV-E Prevention Program Plan for:
  - (I) mental health;**
  - (II) substance abuse; and**
  - (III) in-home parent skill-based programs; and****
- (iv) continued eligibility for a child identified as a candidate for foster care, per OAC 340:75-1-9 ITS, to receive Title IV-E prevention services for additional 12-month periods, including for contiguous 12-month periods, per OAC 340:75-3-300 and 340:75-4-12.1.**

**3. Appropriate FCS cases. An FCS case may be appropriate when:**

- (1) there is a substantiated finding;**
- (2) the child is determined unsafe upon completion of Form 04KI030E, Assessment of Child Safety, and CW services and intervention are needed to ensure the child's health, safety, and welfare;**
- (3) existing safety threats can be managed and controlled for through:
  - (A) a safety plan Safety Plan;**
  - (B) guardianship; or**
  - (C) a non-custodial parent; or**
  - (D) court supervision; and****

(4) Form 04MP078E is completed and signed indicating agreement to participate in FCS.

**4. Successful FCS case indicators.**

(1) ~~A Safety plan~~ Plan with a ~~safety plan~~ Safety Plan monitor(s) that is available for the foreseeable future and includes the elements of Instructions to Staff (ITS) # 1 of this Section and is either an:

(A) in-home ~~safety plan~~ Safety Plan; or

(B) out-of-home ~~safety plan~~ Safety Plan that is not expected to exceed 60-calendar days. Approval to exceed 60-calendar days requires:

(i) a supervisor's approval for 61 to 90-calendar days; and

(ii) the district director's approval for over 90-calendar days. A district director's approval cannot exceed the FCS case limit of 180-calendar days.

(2) Kinship supports were identified and are willing to assist the family.

(3) PRFC(s) acknowledges and accepts the responsibility for the conditions that led to his or her child(ren) being unsafe and is willing to seek services to correct those conditions.

**5. Poor prognosis.**

(1) An FCS case may not be appropriate when poor prognosis indicators exist that can include:

(A) three or more substantiated reports of child abuse or neglect of a serious nature, or repeated removals of a child(ren) from the PRFC;

(B) PRFC's parental rights to another child were terminated;

(C) PRFC had a child in out-of-home care or under court supervision for more than one year during the three-year period immediately prior to the current unsafe determination;

(D) PRFC successfully completed a previous FCS service plan and is again referred to FCS with the same child abuse or neglect allegations;

(E) PRFC is or was subject to the Oklahoma Sex Offender Registration Act or any similar act in another state at any time, or convicted of a sexual felony offense;

(F) PRFC has a history of extensive, abusive, and chronic use or abuse of drugs or alcohol and resisted treatment for substance use or abuse during a three-year period immediately prior to the current unsafe determination;

(G) PRFC was convicted of a felony offense of:

(i) physical assault, battery, or a drug-related offense within the last five years;

(ii) a crime against a child;

(iii) domestic abuse; or

(iv) a crime involving violence including, but not limited to, rape, sexual assault, or homicide; or

(H) the child experienced severe physical or sexual abuse in infancy, or the abuse or neglect resulted in near-death or permanent damage to the child.

- (2) When poor prognosis indicators exist and, after thorough evaluation, the CW specialist and CW supervisor determine that a referral to FCS is appropriate, the CW specialist and CW supervisor:
- (A) consult the district director for approval to proceed with the referral; and
  - (B) document the consultation and final determination in KIDS Investigation Contacts screen.
6. FCS case with a substantiated finding with a safe determination. Refer to OAC 340:75-3-300 ITS.
- (1) When a substantiated finding with a safe determination exists and, after thorough evaluation, the CW specialist and CW supervisor determine that a referral to FCS is appropriate, the CW specialist and CW supervisor:
- (A) consult the district director for approval to proceed with the referral;
  - (B) consult with FCS Programs; and
  - (C) document the consultation and final determination in KIDS Investigation Contacts screen.
- (2) When a substantiated finding with an unsafe determination ~~as to~~ regarding the parent, but an overall safe determination due to a guardianship or a power of attorney with a relative or non-relative caregiver exists, the CW specialist offers FCS to the family.
- (A) A referral to FCS is not made when the parent does not accept CW services and intervention.
  - (B) A ~~safety plan~~ Safety Plan is not established for an overall safe determination.
  - (C) OAC 340:75-4-12.1 is followed, when applicable.
7. Transfer of case responsibility from Child Protective Services (CPS) to FCS. Refer to OAC 340:75-1-29 ITS # 1.
8. Transfer of case responsibility within ongoing FCS case. The assigned CW specialist, at the time the determination is made to transfer the case to another CW specialist or to another district, schedules and conducts a transfer meeting within 10-business days of the transfer determination.
- (1) The transfer meeting discussion includes, but is not limited to:
- (A) a review of Forms 04KI030E, Assessment of Child Safety, and 04MP078E, FSA/~~safety plan~~ Safety Plan, including the:
    - (i) reason for CW involvement;
    - (ii) identified safety threats;
    - (iii) specific behaviors and conditions that need to change;
    - (iv) desired results; and
    - (v) intervention or service recommendations designed to increase parental protective capacities;
  - (B) a discussion of any trauma or CW history within the family;
  - (C) a medical history of a child with a perceived or diagnosed developmental or physical disability or any chronic or acute medical condition;
  - (D) the family's tribal heritage;

- (E) the voluntary ~~safety plan~~ Safety Plan components and responsibilities, including how the safety threats are managed and controlled; and
  - (F) the family time plan, including level of supervision needed.
- (2) The CW specialist enters case-transfer meeting documentation as a contact in the FCS case with a purpose of "Case Transfer" within five-business days after the transfer meeting.
- 9. Case location and assignment responsibility. When opening an FCS case, consideration must be given to the contact requirements outlined in OAC 340:75-4-12.1 ITS # 12. Any established ~~safety plan~~ Safety Plan and PRFC resources must be able to accommodate the required minimum weekly CW specialist face-to-face contact with the parent or legal guardian and child together.
  - (1) FCS case location and assignment is maintained in the county where the CW investigation is completed.
  - (2) An exception to the case location occurs when all participating members of the FCS case relocate to a different county within the state. The case location then transfers to the new county unless the currently assigned county chooses to retain the case and is still able to meet the contact requirements.
  - (3) Secondary assignments in FCS cases are not allowed.
- 10. Initial meeting. When an out-of-home ~~safety plan~~ Safety Plan is established, an initial meeting may be determined beneficial or necessary. In those cases, refer to OAC 340:75-1-29.
- 11. Individualized Service Plan (ISP).
  - (1) Form 04KI012E, Individualized Service Plan, is completed no later than 45-calendar days after the PRFC agrees to accept FCS and signs Form 04MP078E. Form 04KI012E is not completed when the FCS case is closed within 30-calendar days of the PRFC signing Form 04MP078E.
  - (2) Forms 04KI030E and 04MP078E are used to develop the ISP. The ISP determines the interventions needed to correct the behaviors and conditions that resulted in a child being unsafe. Children 10 years of age and older, or younger than 10 years of age who are intellectually capable of understanding and communicating ideas and opinions, participate in the planning process, ~~with the exception of a child~~ except for children with severe intellectual disabilities. The ISP planning process is done in conjunction with the family and describes:
    - (A) the CW specialist and family's course of action to achieve the planned changes and alleviate the safety threats to the child;
    - (B) services associated with specific outcomes available to the child and PRFC;
    - (C) the behaviors and conditions that require change;
    - (D) specific measures to facilitate family change;
    - (E) the time requirements for the family, CW specialist, and other providers to complete the action steps;

- (F) the alternative plan in the event protective capacities are not enhanced and PRFC is unable to manage the safety threats;
  - (G) the expected length of time services are needed in the case; and
  - (H) a crisis management plan to address contingencies, such as a PRFC's relapse or regression, domestic violence, or environmental, or other emergent conditions.
- (3) The CW supervisor reviews Form 04KI012E with the CW specialist to ensure the safety threats identified in Form 04KI030E are addressed.
- (4) The CW specialist:
- (A) makes service referrals based on the needs identified on Form 04KI012E;
  - (B) for an Indian child, utilizes available services of the child's tribe;
  - (C) facilitates initiation of services with providers using Form 04KI012E as a guide to establish service utilization and discusses services with the service provider and family, such as:
    - (i) agreed-upon objectives related to the child's safety and well-being;
    - (ii) the anticipated length of services; and
    - (iii) outcome measures; and
  - (D) considers family members' work and school responsibilities when services are scheduled.

## 12. Family meeting (FM).

- (1) An FM must be held within 10-business days after the:
- (A) Safety plan's Plan's establishment; and
  - (B) parent or legal guardian signs Form 04MP078E, FSA/Safety Plan, signifying acceptance of FCS. Signing Form 04MP078E indicates the PRFC agrees to:
    - (i) discuss the child's safety needs;
    - (ii) discuss any of the child's urgent or critical medical or behavioral health needs. The CW specialist ensures that:
      - (I) these needs are addressed immediately; and
      - (II) the PRFC(s) and ~~safety plan~~ Safety Plan monitor(s) follow-up on these needs;
    - (iii) determine the family's appropriate service needs;
    - (iv) develop a family time schedule for the child and child's family when an out-of-home ~~safety plan~~ Safety Plan is in effect; and
    - (v) identify the family's concrete needs that may be met through:
      - (I) referrals to community-based agencies that provide financial assistance;
      - (II) for an Indian child, referrals to the tribe for available assistance; or
      - (III) the use of Oklahoma Human Services (OKDHS) contingency funds that can be accessed to assist with service needs, per OAC 340:75-1-28.
- (2) When a CSM was held and the items in ITS # 1 and # 2 were discussed, the initial FM can be held within 30-calendar days. Subsequent FMs are required to be held:

- (A) when moving from an out-of-home to an in-home ~~safety plan~~ Safety Plan; and
  - (B) at case closure.
- (3) An FM must be held when the case reaches 150-calendar days in length. The CW specialist informs the PRFC that a deprived petition may be recommended when the parent or legal guardian has not demonstrated the desired behavioral changes to alleviate the safety threats.
- (4) When Title IV-E prevention services specified in the child's prevention plan are provided to, or on behalf of, a child who is a candidate for foster care, per OAC 340:75-1-9 ITS, an FM is held to determine:
- (A) if the family requires continued Title IV-E prevention services that meet the child's, parent's, legal guardian's, or kin caregiver's needs related to the child's safety, permanency, or well-being or to prevent the child from entering foster care;
  - (B) through a review of relevant case documentation, including but not limited to, Forms 04KI012E, Individualized Service Plan, 04KI030E Assessment of Child Safety, and 04MP078E, FSA/Safety Plan, if:
    - (i) the safety threats are controlled and managed; and
    - (ii) recommended services and interventions are achieving the desired behavioral changes to increase protective capacities; and
  - (C) continued Title IV-E prevention services eligibility to ensure the child may remain safely at home; live temporarily with a kin caregiver until reunification can be safely achieved; or live permanently with a kin caregiver. When continued Title IV-E prevention services eligibility is determined, the CW specialist:
    - (i) completes a request for an Oklahoma Children's Services (OCS) extension, per OAC 340:75-1-152.5;
    - (ii) documents continued eligibility in the child's prevention plan, Form 04MP078E; and
    - (iii) continues to evaluate the child's safety and monitor service provision, per OAC 340:75-4-12.1.
- (5) FM documenting and reporting. The CW specialist:
- (A) completes Form 04MP046E, Family Meeting Report, and scans it into the document management system;
  - (B) documents the FM in KIDS Contacts screen no later than 30-calendar days after each FM completion; and
  - (C) summarizes the FM results in the KIDS Contacts screen and includes:
    - (i) attendees; and
    - (ii) discussions about safety planning, ISP progress, and barriers.
13. Contact requirements regarding child and PRFC.
- (1) During the FCS case's first 60-calendar days, the CW specialist evaluates the child's safety in the home by making face-to-face contact with the child and PRFC together one or more times per week as the CW supervisor determines.
  - (2) After the initial 60-calendar days, the CW specialist and CW supervisor may decide that face-to-face contact with the child and PRFC together can

be reduced to a minimum of once every other week. This decision is dependent upon the information from the most current AOCS, the contact guides, and considers:

- (A) how manageable the remaining safety threats are;
  - (B) behavioral changes ~~demonstrated by the PRFC~~ demonstrates;
  - (C) the parent's or legal guardian's participation and ISP progress; and
  - (D) barriers to successful ISP completion and proposed solutions.
- (3) The CW supervisor approves and documents any decrease in the number of contacts.
- (4) Contact requirements are documented in the ongoing FCS case in KIDS Contacts.
- (5) When the child is in an out-of-home ~~safety plan~~ Safety Plan during the FCS case, the CW specialist has face-to-face contact:
- (A) with the child in the ~~safety plan~~ Safety Plan monitor's home within the first two weeks the child is in the home; and
  - (B) a minimum of once every calendar month thereafter with no more than 31-calendar days between contacts.
    - (i) The contact with the child in the ~~safety plan~~ Safety Plan monitor's home is in addition to the weekly or every other week contact the CW specialist has with the child and PRFC together.
    - (ii) More frequent contacts are made with the child during times of change and stress.
- (6) When the visits with the child and the PRFC together occur in the safety monitor's home, an additional contact is not needed, but private conversations with the ~~safety plan~~ Safety Plan monitor(s) are documented.
- (7) When the child is in an in-home ~~safety plan~~ Safety Plan during the FCS case, the CW specialist contacts the in-home ~~safety plan~~ Safety Plan monitor(s) in person or by phone:
- (A) weekly, during the FCS case's first 60-calendar days; and
  - (B) every other week, after the initial 60-calendar days and until the ~~safety plan~~ Safety Plan is no longer required.
- (8) Per OAC 340:75-6-48 ITS, the CW specialist documents the contacts in KIDS after the initial home contact and once per month thereafter for each PRFC and for each child in the home or in an out-of-home ~~safety plan~~ Safety Plan.
- (9) The purpose of CW specialist contacts with the child, PRFC, and ~~safety plan~~ Safety Plan monitor(s) includes, but is not limited to:
- (A) administering the Child Behavioral Health Screener monthly and making necessary referrals;
  - (B) ensuring that the ~~safety plan~~ Safety Plan is adequately managing the safety threats and all parties are complying with the ~~safety plan~~ Safety Plan;
  - (C) ensuring the PRFC understands the ISP and the consequences of failure to correct the conditions requiring intervention;
  - (D) assessing the PRFC's ability to provide a safe environment for the child;

- (E) evaluating the home situation and ISP progress;
- (F) encouraging and guiding the PRFC in ISP completion;
- (G) evaluating the child's safety and needs in the home or in the ~~safety plan~~ Safety Plan monitor's home, and that includes private conversations with the child;
- (H) evaluating whether the PRFC is developing and maintaining a healthy parent-child relationship;
- (I) advising the PRFC of his or her rights, roles, responsibilities, and the case's status; and
- (J) assisting with needs the ~~safety plan~~ Safety Plan monitor(s) may have for the purpose of ensuring the child's safety and well-being.

**14. Service referrals.**

(1) Referrals are made to community partners to address identified service needs to assist the PRFC(s) in correcting the behaviors and conditions that created the safety threats. Referrals to OCS, per OAC 340:75-1-151, may also be made to assist with service needs.

(2) Referrals are made to community partners to address identified high risk situations or behaviors that do not cross the safety threshold, are not active safety threats, and can include:

- (A) housing resources;
- (B) food pantries;
- (C) basic parenting programs;
- (D) parent education;
- (E) educational resources;
- (F) employment services;
- (G) vocational training or rehabilitation services; or
- (H) other OKDHS services, such as Temporary Assistance for Needy Families (TANF).

**15. Contact with service providers.** The CW specialist maintains no less than bi-weekly contact with the service provider by phone, in person, or correspondence and documents the contacts in KIDS. The CW specialist:

- (1) gathers and documents information about the PRFC's progress in Contacts; and
- (2) notifies the service provider of changes in the family's circumstances.

**16. Referral for medical eligibility determination.** The CW specialist discusses the child's medical needs and determines if the family has medical coverage for the child. When the family does not have medical coverage for the child, the PRFC is referred to SoonerCare Health Benefits (Medicaid), per OAC 317:35-7-16.

**17. Child well-being measures.** Child well-being is connected to the child's educational, physical, dental, and behavioral health needs. The CW specialist works with PRFC to address these immediate needs, to identify and access appropriate services to meet the child's identified needs, and to ensure the ~~safety plan~~ Safety Plan monitor(s) is aware as well. The child's identified needs are included in service planning and documented in KIDS.

- (1) Educational needs. When the child is in an out-of-home ~~safety plan~~ Safety Plan, the CW specialist confirms that the ~~safety plan~~ Safety Plan monitor(s) is willing to assist the child continue in his or her original school or program.
- (2) Physical, dental, and behavioral health needs. The CW specialist ensures PRFC and ~~safety plan~~ Safety Plan monitor(s) follow-up on identified needs.
18. Transporting families who receive FCS. Initially, the CW specialist may assist with the family's transportation needs. The CW specialist explores other means of transportation with the family that allow for independence once services are completed. When PRFC cannot accompany the child, the CW specialist may transport a child who is not in OKDHS custody with the PRFC's written authorization.
19. SoonerStart services. For a child younger than 3 years of age who is a victim of substantiated child abuse or neglect and is a party in an FCS case, a referral to the SoonerStart Early Intervention program is made when a subsequent need is identified, or when a SoonerStart referral was not previously completed. The SoonerStart Child Welfare Referral Form is accessed via the SOONERSTART CHILD WELFARE REFERRAL FORM.
20. Case management responsibilities for FCS cases.
- (1) When PRFC accepts FCS, the CW specialist is responsible for determination of child safety, case management, and service provision, per OAC 340:75-4-12.1, regardless of whether the family is referred for community-based services:
- (A) The CW specialist maintains an open FCS case until the child is determined safe and PRFC's protective capacities are sufficient for continued safety after a subsequent, updated Form 04KI030E, Assessment of Child Safety, is completed.
- (B) When the family is referred for OCS, the FCS case stays open until completion of services that are directly related to the child's health, safety, and welfare which required the need for CW intervention.
- (2) When a family member participating in an FCS case was is referred for substance use or abuse treatment services through a TANF contract provider in a CW only case and the family is not eligible for TANF, CW staff must contact the provider prior to closing the case. Since the provider cannot bill when the case is not open, the CW specialist must consider when the family member is:
- (A) nearing completion of services and coordinates the closure date with the provider; or
- (B) not nearing completion of services, and informs the family member and provider that services will no longer be billed through the TANF contract. As a result, the family member is responsible for payment.
21. FCS monthly case conference. A case conference between the CW specialist and CW supervisor is conducted at least once every 30-calendar days and documented in KIDS as a Case Consultation contact. During the monthly conference, the CW specialist and CW supervisor review:
- (1) relevant case documentation;
- (2) Form 04KI030E, Assessment of Child Safety;

- (3) Form 04MP078E, Family Service Agreement (FSA)/Safety Plan; and
  - (4) Form 04KI012E, Individualized Service Plan (ISP) to determine whether:
    - (A) safety threats are controlled and managed;
    - (B) recommended services and interventions are achieving the desired behavioral changes to increase protective capacities; and
    - (C) the frequency of CW contacts with the family increases, decreases, or remains unchanged.
- 22. Notification of injury. When a child in an open FCS case has a physical injury and the cause of the injury is unexplained, the CW specialist follows the protocol and documentation requirements, per OAC 340:75-3-130.
- 23. Abuse or neglect in an active FCS case.
  - (1) When a child who is a participant in an FCS case is reported or observed by the CW specialist to have any suspicion of abuse or neglect, the CW specialist contacts the OKDHS Abuse and Neglect Hotline (Hotline) for completion of Form O4KI001E, Referral Information Report, per OAC 340:75-3-130.
  - (2) A referral to the Hotline is not necessary when criteria (A) through (D) are met.
    - (A) The child is thoroughly inspected for additional injuries to include rearrangement of clothing when necessary.
    - (B) The documentation is entered into the child's case KIDS Injury screen.
    - (C) Prior to the decision not to contact the Hotline regarding an observed injury to the head, face, ears, neck, stomach, or genitals, or a burn or fracture to a child 5 years of age and younger or to a child with a perceived or diagnosed developmental disability, the CW specialist and CW supervisor must consult with their assigned district director or field manager.
    - (D) The district director or field manager is required to review all necessary information to make an informed safety decision and determine if a referral is made to the Hotline.
  - (3) When a new abuse or neglect incident occurs and an investigation is assigned, Form 04KI003E, Report to District Attorney, is completed and submitted to the DA.
- 24. Preparing the family for case closure. Concluding the working relationship between the CW specialist and family before FCS case closure is essential. The CW specialist:
  - (1) separates from the family while continuing to provide support and encouragement;
  - (2) increases emphasis on the family developing an informal support system to:
    - (A) preserve and strengthen protective capacities;
    - (B) assist in the family safely caring for the child in their own home;
    - (C) ensure the child's healthy well-being; and
    - (D) prevent future CW involvement; and
  - (3) gradually decreases family contacts while the family increases utilization of the family's informal support system.

**25. Developing an FCS after-care plan. When the child safety assessment indicates the child is safe and the PRFC's protective capacities are sufficient for continued safety, the CW specialist:**

**(1) develops an after-care plan with the family's input, Form 04MP080E, FCS After-Care Plan, during an FM or case closure discussion meeting that:**

**(A) identifies informal supports that can assist the family when ~~Child Welfare Services (CWS)~~ is no longer involved and the FCS case is closed. Informal supports include, but is not limited to, extended family, friends, and neighbors who may help the family identify ways to prevent the behaviors or actions that precipitated CWS involvement from reoccurring;**

**(B) determines if the family requires further services or assistance at case closure and provides referrals for necessary community services;**

**(C) advises the family of signs that might indicate a need for future services and provides the family with information about whom to contact for help;**

**(D) submits the family's after-care plan to the CW supervisor for review and approval;**

**(E) formalizes the case closing with the family when the written documentation for case closure and the after-care plan is approved;**

**(F) discusses the finalized after-care plan with the family and provides a copy to the family;**

**(G) addresses any ongoing concerns the family may have;**

**(H) encourages the family to contact OKDHS when future help is needed;**

**(I) scans the after-care plan in the final version, Form 04MP080E, into KIDS document management system; and**

**(J) closes the case record by completing and submitting all appropriate documentation in KIDS to the CW supervisor for final approval; and**

**(2) provides a notice of the planned case closure to the OCS contractor and OCS contract liaison when the family still receives OCS.**

**26. FCS case closure. The family, CW specialist, and CW supervisor are involved in the determination that the child's health, safety, and welfare is ensured and the FCS case can be closed.**

**(1) The CW specialist discusses and reviews all critical elements of the CWS intervention with the family and empowers the family to express opinions, feelings, and constructive feedback to the CW specialist. An FM is held prior to case closure.**

**(2) The standard for closing an FCS case is the determination that the:**

**(A) PRFC demonstrates sufficient behavioral changes and increased protective capacities to ensure the child's health, safety, and welfare;**

**(B) threats to child safety no longer exist; and**

**(C) the family has developed an informal support system to preserve and strengthen protective capacities to assist the family in safely caring for the child in their own home, ensure the child's healthy well-being, and prevent future CWS involvement.**

**(3) Before initiating steps to close the FCS case, the CW specialist:**

- (A) discusses the FCS case with the CW supervisor; and
- (B) completes an updated or new Form 04KI030E, Assessment of Child Safety.

27. PRFC's refusal to cooperate or respond during FCS case. Families must be meaningfully engaged in the treatment process for the duration of the FCS case.

(1) When the PRFC is not available or persistently requests appointment postponement or rescheduling, the CW specialist:

- (A) makes diligent efforts to encourage PRFC to participate and complete services;
- (B) documents the efforts in the FCS case; and
- (C) discusses the case with the CW supervisor to:
  - (i) review the updated and previous Forms 04KI030E;
  - (ii) review the most recent Form 04KI012E;
  - (iii) evaluate the adequacy of the PRFC's protective capacities without services; and
  - (iv) determine if court intervention is necessary.

(2) When PRFC refuses to participate in services after three contact attempts, requests case closure, or the CW specialist and CW supervisor determine that efforts to assist the family in changing behaviors were unsuccessful, Form 04KI001E is not completed, but the CW specialist completes an updated or new Form 04KI030E.

- (A) When the ongoing AOCs indicates the child is safe, the CW specialist:
  - (i) documents the determination in the FCS case;
  - (ii) scans Form 04KI030E into the KIDS document management system; and
  - (iii) closes the FCS case with the CW supervisor's approval of the ~~CW supervisor~~.

(B) When the updated or new Form 04KI030E indicates the child is unsafe, an addendum to the original Form 04KI003E is completed in KIDS.

(i) When the investigation was closed for less than 30-calendar days, the:

- (I) ~~Child Protective Services (CPS)~~ supervisor may re-open the closed investigation making the addendum tab available; and
- (II) CW specialist who completed the original investigation and recommended the FCS case, completes the Report to District Attorney (DA) addendum in KIDS.

(ii) When the investigation was closed for more than 30-calendar days, but less than six months, the district director:

- (I) may re-open the closed investigation making the addendum tab available; and
- (II) determines which CW specialist completes the Report to DA addendum.

(iii) When the investigation was closed for more than six months, the:

- (I) CPS Programs Unit may re-open the investigation making the addendum tab available; and

(II) district director determines which CW specialist completes the Report to DA addendum.

**28. Report to DA addendum requirements.**

- (1) The Report to DA addendum includes, in summary form:
  - (A) a description of the efforts made to maintain the child in his or her own home;
  - (B) ~~the PRFC's~~ response and participation in correcting conditions that led to the unsafe determination;
  - (C) the PRFC's behaviors and conditions that continue to pose a safety threat; and
  - (D) the OKDHS recommendation for a deprived petition.
- (2) The findings of original Form 04KI003E, Assessment of Child Safety are not updated or changed and court intervention is requested using the Report to DA addendum.
- (3) Documents provided to the DA for consideration of filing a deprived petition include the:
  - (A) Report to DA addendum;
  - (B) original Form 04KI003E; and
  - (C) updated or new Form 04KI030E.

**29. Voluntary foster family care procedures.**

- (1) A child may be placed in foster family care at the child's ~~parent~~ parent's request when an emergency temporarily disrupts the parent's ability to safely provide for the child.
  - (A) A child whose needs exceed traditional foster family care is not eligible for voluntary foster family care, per OAC 340:75-8-1.
  - (B) Relatives or other resources available to the family are fully explored and ruled out as a possible placement option before considering voluntary foster family care approval.
  - (C) An open CW case is required for voluntary foster family care.
- (2) When a child is placed in voluntary foster family care, the CW specialist opens a case with the case type "Voluntary Foster Care." Claims for foster care maintenance payments are processed through KIDS.
- (3) Prior to the child's placement, the CW specialist prepares Form 04FC007E, Authorization from Parent or Guardian for Voluntary Foster Family Home Placement and Medical Care of Child, that is signed by the parent.
  - (A) The CW specialist explores, and documents on Form 04FC007E, the parent or legal guardian's ability to financially contribute to the child's care.
  - (B) The CW specialist does not complete a case plan when voluntary foster family care is a short-term service with no anticipation of court intervention, such as when a parent must receive medical treatment and there is no other caregiver for the child in the parent's absence.
- (4) CWS:
  - (A) selects a suitable foster family home and places the child;
  - (B) supervises the placement;

- (C) provides appropriate services to the child and foster family; and
  - (D) coordinates ~~visitation~~ family time and other services that involve the child, parent, or relative, as applicable.
- (5) When permitted, voluntary foster family care is approved for an initial period of 30-calendar days and may be extended up to a maximum of 90-calendar days when the extension may result in family reunification without court intervention.
- (6) When an extension of voluntary foster family care is required, the CW specialist sends a written request to the district director stating the reason for the extension and projected date of the child's return to his or her own home or other placement. The district director provides a written response approving or denying the request.
- (7) Upon the child's return to the parent or legal guardian, page 2 of Form 04FC007E is signed by the parent or legal guardian.
- (A) The CW specialist provides the parent or legal guardian with a record of medical care, immunizations received, and any other vital information obtained about the child during foster family care placement.
  - (B) An adequate clothing supply, including the clothing taken into foster family care, and any items of importance to the child, accompanies the child upon return to his or her own home or other placement.
  - (C) The CW specialist informs PRFC of available services.
- (8) When a referral is received from Adult and Family Services (AFS), requesting voluntary foster family care for a child residing in the home of a parent, or relative, the CW specialist reviews the referral ~~is reviewed by the CW specialist~~ with the parent or legal guardian to determine if the referral is appropriate. The assigned CW specialist is responsible for all voluntary foster care services.
- (9) When voluntary foster family care is requested for a child 17 years of age and younger who is in tribal custody, refer to OAC 340:75-19-29.
- (10) The CW specialist completes Form 04KI003E and requests a deprived petition when:
- (A) foster family care extends beyond 90-calendar days;
  - (B) the emergency situation resulting in the voluntary placement is unresolved; and
  - (C) there is no alternative for the child.

## SUBCHAPTER 6. PERMANENCY PLANNING

### PART 7. FAMILY AND CHILD INDIVIDUALIZED SERVICE PLANNING COMPONENTS

#### 340:75-6-40.9. Termination of parental rights (TPR) ■ 1 through 3

Revised ~~9-15-202~~ 1-22

- (a) **Effect of {TPR}**. Per Section 1-4-906 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-906), TPR terminates the parent-child relationship including the parent's right to:
- (1) custody of the child;

- (2) visit the child;
- (3) control the child's training and education;
- (4) apply for guardianship of the child;
- (5) consent to the child's adoption;
- (6) the child's earnings; and
- (7) inherit from or through the child; although, termination of parental rights does not affect the child's right to inherit from the parent.

**(b) Legal grounds for termination of parental rights.**

(1) Per 10A O.S. § 1-4-904, a court may not terminate a parent's parental rights unless the child is adjudicated deprived prior to, or concurrent with, TPR proceedings, and the court makes the finding that TPR is in the child's best interests.

(2) Per 10A O.S. § 1-4-901, a TPR petition or motion may be filed by the district attorney (DA) or by the attorney for the child alleged to be or adjudicated deprived.

(3) Per 10A O.S. § 1-4-904, the court may terminate parental rights on the grounds listed in (A) through (Q) of this paragraph.

**(A) Consent.** The parent may consent to termination of his or her parental rights by signing a voluntary consent form to relinquish parental rights.

(i) The written, voluntary consent signed under oath, recorded before a judge of a court of competent jurisdiction, is not revocable unless the parent can provide clear and convincing evidence that the consent was executed by reason of fraud or duress.

(ii) In any proceeding for a voluntary TPR to an Indian child, the parent's consent may be withdrawn for any reason at any time prior to the entry of a final decree of termination. Any consent given prior to or within 10-calendar days after the birth of the Indian child is not valid.

**(B) Abandonment.** The court may find that the parent who is entitled to custody of the child has abandoned the child.

**(C) Abandonment of an Infant.** The court may find that the child, 12 months of age or ~~or~~ and younger, was abandoned.

**(D) Non-compliance with voluntary placement agreement.** The court may find that the child's parent:

(i) voluntarily placed physical custody of the child with ~~the~~ Oklahoma Department of Human Services (~~DHS~~) (OKDHS) or a child-placing agency for out-of-home placement;

(ii) has not complied with the placement agreement; and

(iii) ~~has not demonstrated~~ during the child's period of voluntary out-of-home placement, has not demonstrated a firm intent to resume physical custody of the child or make other permanent legal arrangements for the child's care.

**(E) Failure to correct condition(s).** The court may find that the parent failed to correct the condition(s) that led to the child's adjudication as a deprived child although the parent was given at least three months to correct the condition(s).

**(F) Same conditions - another child.** The court may find that another child of a parent whose parental rights to any other child were terminated and the conditions that led to the prior TPR were not corrected.

**(G) Failure to support.** The court may find that the non-custodial parent has willfully failed, refused, or neglected to contribute to the child's support for at least

six out of the last 12 months immediately preceding the filing of the termination petition or motion:

- (i) as specified by a court order for child support, or
- (ii) according to the parent's financial ability to support the child, when an order for child support does not exist. Incidental or token support is not construed or considered when determining if the parent maintained or contributed to the child's support.

(H) **Certain criminal convictions.** The court may find a parent has a conviction in a criminal action, in any state, of any of the following acts:

- (i) permitting a child to participate in pornography;
- (ii) rape or rape by instrumentation;
- (iii) lewd molestation of a child younger than 16 years of age;
- (iv) child abuse or neglect;
- (v) enabling child abuse or neglect;
- (vi) causing the death of a child as a result of the physical or sexual abuse or chronic abuse, or chronic neglect of the child;
- (vii) causing the death of the child's sibling as a result of the physical or sexual abuse or chronic abuse, or chronic neglect of the child's sibling;
- (viii) murder of any child or aiding or abetting, attempting, conspiring, or soliciting to commit murder of any child;
- (ix) voluntary manslaughter of any child;
- (x) a felony assault that resulted in serious bodily injury to the child or another child of the parents; or
- (xi) murder or involuntary manslaughter of the child's parent or aiding or abetting, attempting, conspiring, or soliciting to commit murder of the child's parent.

(I) **Heinous or shocking abuse or neglect.** The court may find that a parent has abused or neglected ~~the~~ any child or the child's sibling or failed to protect ~~the~~ any child or sibling from abuse or neglect that is heinous or shocking.

(J) **Prior abuse or neglect.** The court may find that a parent previously abused or neglected the child or the child's sibling, or failed to protect the child or sibling from abuse or neglect and the child or sibling was subjected to subsequent abuse.

(K) **Rape by the parent.** The court may find the child was conceived as a result of a rape perpetrated by the parent whose rights to the child are sought to be terminated.

(L) **Incarceration.** ~~The~~ While a parent's incarceration in and of itself is not sufficient to deprive a parent of parental rights, the court may find ~~the~~ continued parental rights of an incarcerated parent whose rights are sought to be terminated is incarcerated, and continuation of parental rights would result in harm to the child based on the consideration of factors including, but not limited to, the:

- (i) duration of incarceration and its detrimental effect on the parent-child relationship;
- (ii) previous convictions resulting in involuntary confinement in a secure facility;
- (iii) history of criminal behavior, including crimes against children;
- (iv) the child's age;
- (v) evidence of abuse or neglect or failure to protect the child or the child's siblings by the parent;

- (vi) current relationship between the parent and child; and
- (vii) manner in which the parent exercised parental rights and duties in the past.  
~~The parent's incarceration in and of itself is not sufficient to deprive a parent of parental rights.~~

(M) **Behavioral health illness or incapacity.** The court must find the factors in (i) and (ii) of this subparagraph exist.

(i) The parent has a diagnosed cognitive disorder, an extreme physical incapacity, or a medical condition, including behavioral health or substance dependency, that renders the parent incapable of adequately and appropriately exercising parental rights, duties, and responsibilities within a reasonable time, considering the child's age of the child; and. A finding that a parent has a diagnosed cognitive disorder, an extreme physical incapacity, or a medical condition, including behavioral health or substance dependency, does not in and of itself deprive the parent of parental rights.

(ii) Allowing the parent to have custody would cause the child actual harm or harm in the near future.

~~(I) A parent's refusal or non-compliance with treatment, therapy, medication, or assistance for the condition can be used as evidence.~~

~~(II) A finding that a parent has a diagnosed cognitive disorder, an extreme physical incapacity, or a medical condition, including behavioral health or substance dependency, does not in, and of itself, deprive the parent of parental rights.~~

(N) **Prior adjudication of same conditions.** The court may find the:

(i) condition that led to the deprived adjudication was the subject of a previous deprived adjudication of this child or this child's sibling; and

(ii) parent was given an opportunity to correct the conditions that led to the determination of the initial deprived child.

(O) **Substantial erosion of parent-child relationship.** The court may find a substantial erosion of the relationship between the parent and child exists caused at least in part by:

(i) the parent's serious or aggravated neglect of the child, physical or sexual abuse, or sexual exploitation of the child;

(ii) a prolonged and unreasonable absence of the parent from the child; or

(iii) ~~an~~ the parent's unreasonable failure ~~by the parent~~ to visit or communicate in a meaningful way with the child.

(P) **Lengthy foster care of child 4 years of age and older.**

(i) The court may find:

(I) a child 4 years of age and older at the time of placement, was placed in foster care by ~~DHS~~ OKDHS for 15 of the most recent 22 months, preceding the filing of the TPR petition or motion; and

(II) at the time of the filing of the TPR petition or motion, the child cannot be safely returned to the home of the parent.

(ii) A child is considered to have entered foster care on the earlier of the:

(I) earlier of the adjudication date; or

(II) the date 60-calendar days after the date the child was removed from his or her home.

**(Q) Lengthy foster care of a child younger than 4 years of age.**

- (i) The court may find a child younger than 4 years of age at the time of placement:
  - (I) was placed in foster care by ~~DHS~~ OKDHS for at least six of the 12 months preceding the filing of the TPR petition or motion; and
  - (II) the child cannot be safely returned to the home of the parent.
- (ii) A child is considered to have entered foster care on the earlier of the:
  - (I) earlier of the adjudication date; or
  - (II) the date 60-calendar days after the date the child was removed from his or her home.
- (iii) The court may consider:
  - (I) circumstances of the parent's failure to develop and maintain a parental bond with the child in a meaningful, supportive manner; and
  - (II) if allowing the parent to have custody would likely cause the child actual serious psychological harm or harm in the near future as a result of the child's removal from the substitute caregiver due to the existence of a strong, positive bond between the child and caregiver.

**(c) Mandatory petition or motion for TPR.** Per 10A O.S. § 1-4-902, the ~~district attorney~~ DA is required to file a petition or motion to terminate the parent-child relationship and parental rights with respect to a child joins in the petition or motion, when filed by the child's attorney in any of the circumstances detailed in (1) through (4) of this subsection.

**(1) The child is in out-of-home care for 15 out of the most recent 22 months.** Prior to the end of the fifteenth month, the child was placed in foster care by ~~DHS~~ OKDHS for 15 of the most recent 22 months. The child is considered to have entered foster care on the earlier date:

- (A) of adjudication as a deprived child; or
- (B) 60-calendar days after the date ~~on which~~ the child was removed from the his or her home;

**(2) The child is determined to be an abandoned infant.** A petition or motion to TPR is filed no later than 60-calendar days after the child is judicially determined to be an abandoned infant;

**(3) Reasonable efforts to reunite are not required due to certain felony convictions of the parent.** A TPR petition or motion is filed no later than 60-calendar days after the court determines that reasonable efforts to reunite are not required due to a parent's felony conviction of any of the following acts:

- (A) permitting a child to participate in pornography;
- (B) rape, or rape by instrumentation;
- (C) lewd molestation of a child younger than 16 years of age;
- (D) child abuse or neglect;
- (E) enabling child abuse or neglect;
- (F) causing a child's death as a result of the physical or sexual abuse ~~or~~ or chronic abuse, or chronic neglect of the child;
- (G) causing the death of the child's sibling as a result of the physical or sexual abuse ~~or~~ or chronic abuse, or chronic neglect of the child's sibling;
- (H) murder of any child or aiding or abetting, attempting, conspiring in, or soliciting to commit murder of any child;
- (I) voluntary manslaughter of any child;

- (J) a felony assault that resulted in serious bodily injury to the child or another child of the parent; or
- (K) murder or voluntary manslaughter of the child's parent, or aiding or abetting, attempting, conspiring in, or soliciting to commit murder of the child's parent; or
- (4) **The parent made no measurable progress in correcting conditions.** No later than 90-calendar days after the court ordered the individualized service plan, the court may file a TPR petition when the parent has made no measurable progress in correcting the conditions that caused the child to be adjudicated deprived.
- (d) **District Attorney DA not mandated to file petition or motion to TPR under certain conditions.** Per 10A O.S. § 1-4-902, when any of the conditions in (1) through (3) of this subsection exist, the district attorney DA is not mandated to file a TPR petition or motion.
- (1) At the option of ~~DHS~~ OKDHS or by order of the court, the child is properly cared for by a relative; ~~or~~
- (2) ~~DHS documented~~ OKDHS documents a compelling reason for determining that filing a TPR petition would not serve the child's best interests and may include consideration that the:
- (A) parents or legal guardians have maintained a relationship with the child and the child would benefit from continuing the relationship;
- (B) child, who is 12 years of age and older, objects to the termination of the parent-child, legal relationship;
- (C) child's foster parents are unable to adopt the child because of exceptional circumstances that do not include an unwillingness to accept legal responsibility for the child; but are willing and capable of providing the child with a stable and permanent environment, and the removal of the child from the physical custody of the foster parents would be seriously detrimental to the emotional well-being of the child because the child has substantial psychological ties to the foster parents;
- (D) child is not capable of achieving stability when placed in a family setting; or
- (E) child is an unaccompanied, refugee minor and the situation regarding the child involves international legal issues or compelling foreign policy issues; ~~or~~
- (3) ~~DHS Reasonable efforts to reunite the child with his or her family are required and OKDHS has not provided to the child's family, consistent with the time period in the state case plan, services that the state deems necessary for the child's safe return to his or her home, when reasonable efforts to reunite are required to be made with respect to the child which are consistent with the time period in the state case plan.~~
- (e) **Parental rights not terminated at trial.** When parental rights are not terminated at trial, the court schedules a permanency hearing within 30-calendar days, per 10A O.S. § 1-4-908. ~~The TPR failure of parental rights to be terminated at trial does not:~~
- (1) ~~deprive the court of its continuing jurisdiction over the child, ~~nor~~; or~~
- (2) ~~require the child's reunification with the parent when the child is adjudicated deprived.~~
- (f) **Adoption consent authority when parental rights terminated with TPR.** When the court terminates parental rights and the child's custody is placed with ~~DHS~~ OKDHS, the court must vest ~~DHS~~ OKDHS with the authority to place the child, and consent to the child's adoption, per 10A O.S. § 1-4-907.
- (g) **Duty to provide access to identifying information to the Oklahoma State Department of Health (OSDH).** ~~DHS~~ OKDHS provides OSDH with access ~~to OSDH~~ to

the identifying information of all individuals who, ~~as to any child,~~ had their parental rights terminated and the conditions that led to the TPR finding, per 63 O.S. § 1-227.10.

## **INSTRUCTIONS TO STAFF 340:75-6-40.9**

**Revised ~~9-15-202~~-1-22**

### **1. Termination of parental rights (TPR) considerations. TPR is an extreme legal step that requires in-depth analysis of the case facts.**

**(1) TPR may occur after both parents fail to correct the conditions that caused the child's removal from the home.**

**(2) Despite service efforts to assist the parent, some parents are either unwilling or unable to do what is needed to make the home environment safe for the child.**

**(3) Circumstances that indicate a child cannot be safely returned home, include, but are not limited to, examples listed in (A) through (H) of this paragraph.**

**(A) Despite diligent, appropriate, and reasonable efforts by Child Welfare Services and other service providers, the parent fails to correct the behaviors or conditions that threaten the child's safety.**

**(B) A long-standing pattern of abandonment or extreme parental disinterest exists.**

**(C) The parent has a diagnosed cognitive disorder, an extreme physical incapacity, or a medical condition, including behavioral health or substance dependency, that renders the parent incapable of adequately and appropriately exercising parental rights, duties, and responsibilities within a reasonable time considering the child's age.**

**(i) The child welfare (CW) specialist considers if allowing the parent to have custody would cause the child actual harm or harm in the near future.**

**(ii) The parent's refusal of, or pattern of noncompliance with, treatment, therapy, medication, or assistance from outside the home can be used as evidence that the parent is incapable of adequately and appropriately exercising parental rights, duties, and responsibilities.**

**(D) A history exists of drug- or alcohol-related incapacity with repeated, unsuccessful efforts at treatment.**

**(E) Prior abuse or neglect of the child, a sibling, or other child in the family occurred and the parent failed to correct the behaviors or conditions that threaten the child's safety.**

**(F) The child's neglect or abuse was so severe that the court determined reasonable efforts to reunify the child and family are not required.**

**(G) Prior abuse or neglect caused the child to develop a deep aversion or fear of the parent that has not subsided with counseling.**

**(H) The parent is imprisoned for a prolonged period and will be unavailable during the child's minority.**

### **2. Documenting Oklahoma ~~Department of Human Services (DHS)~~ (OKDHS) request for TPR motion or petition. When the CW specialist requests a TPR**

petition or motion, the CW specialist documents the request in the KIDS/Court/Par Rights/Recommend screen within five-business days of the request.

3. **Compelling reasons not to request mandatory TPR.** When ~~(DHS)~~ OKDHS or the court determines a compelling reason exists not to request TPR based on ~~10A O.S. § 1-4-902~~ requirements in Section 1-4-902 of Title 10A of the Oklahoma Statutes, the CW specialist documents the type of compelling reason in the KIDS Court/Par Rights/Recommend screen within five-business days of the determination. The compelling reason is submitted to the court in the applicable court or progress report.

## SUBCHAPTER 7. FOSTER HOME CARE

### PART 2. DEVELOPMENT OF RESOURCE FAMILIES

#### **340:75-7-15. Background information search and assessment of results**

Revised ~~9-15-21~~ 2-1-22

(a) **Authorization to conduct criminal history records searches.** The applicants and adult household members give consent for Oklahoma State Bureau of Investigation (OSBI) and Federal Bureau of Investigation (FBI) criminal histories records searches by signing Form 04AD003E, Request for Background Check.

(b) **Background information search for applicants and adult household members.**

■ 1 A background information search is conducted regarding each adult in the applicant's home as a safeguard for children placed in Oklahoma Human Services (OKDHS) custody. Results from the background information searches are obtained, assessed, and documented prior to the applicant's approval. Background information searches are conducted at the time of application and include, but are not limited to:

- (1) an OSBI name and criminal history records search;
- (2) an FBI national criminal history records search, based on fingerprints, per Section 1-7-111 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-111);
- (3) a search of the Oklahoma Sex Offender Registry;
- (4) a search of the Mary Rippy Violent Offender Registry;
- (5) a Department of Public Safety (DPS) report;
- (6) a search of the Oklahoma State Courts Network, including Oklahoma District Court Records to determine if the applicant or adult household member is, or was, a party in any court action;
- (7) a search of the Oklahoma Department of Corrections (DOC) offender information;
- (8) a search of all OKDHS records, including child welfare (CW) records;
- (9) a search of the Restricted Registry;
- (10) a search of Nontechnical Services Worker Abuse Registry maintained by the Oklahoma State Department of Health;
- (11) a search of the Community Services Worker Registry;
- (12) a search of all applicable out-of-state child abuse and neglect registries for the applicant or adult household member, who has not lived in Oklahoma continuously for the past five years, per 10A O.S. § 1-7-111;

(A) The when a child abuse and neglect registry is maintained in the applicable

~~state, the potential resource home is not approved without the results for the applicant applicant's and adult household members of the out-of-state child abuse and neglect member's registry checks, when a registry is maintained in the applicable state.; or~~

(B) ~~When~~ when a child abuse and neglect registry is not maintained in the applicable state, OKDHS requests any information that can be provided from the state; and

(13) a search of Juvenile Online Tracking System (JOLTS) records for any child not in OKDHS custody, 13 through 17 years of age, living in the home.

(c) **Background information summary.** All background information is documented on Form 04AF007E, Records Check Documentation. A copy of Form 04AF007E is shared with the resource family partner (RFP) or the resource family assessment (RFA) contractor responsible for completing an RFA. The RFP is provided background information only for searches the RFP does not conduct.

(d) **Exception to fingerprinting.** Per 10A O.S. § 1-7-111, the OKDHS Director or designee may authorize an exception to the fingerprinting requirement and an alternative procedure for obtaining a national criminal history records search for any applicant or adult residing in the home who has a severe condition that precludes ~~such person~~ him or her from being fingerprinted. In limited, case-specific circumstances, OKDHS may not be able to obtain:

(1) an individual's fingerprints as a result of the individual's disability; or

(2) legible fingerprints due to low quality fingerprints, as a result of age, occupation, or other conditions, thereby making it impossible for the National Crime Information Center (NCIC) to provide results.

(e) **Out-of-state equivalent records check required based on length of residency.** Prior to approval, applicants or adult household members who have lived in Oklahoma for less than five years must provide equivalent background records checks from previous state(s) of residence. Equivalent records checks include, but are not limited to, a state's criminal history search, including Sex Offender registries. Prior to approval, OKDHS obtains the child abuse and neglect registry check from the previous state(s) of residence, when a registry is available. When a child abuse and neglect registry is not maintained in the applicable state, OKDHS requests any information that the state can provide. ■ 1

(f) **Residence time requirement for kinship applicants.** Prior to placement, kinship applicants or adult household members who have not lived in Oklahoma continuously for the past five years must submit fingerprints. OKDHS must obtain the child abuse and neglect registry check from the previous state(s) of residence, when a registry is available. Both the national criminal history records search and the child abuse and neglect registry checks must be completed, prior to a child's placement in a kinship home, per 10A O.S. § 1-7-111. When a child abuse and neglect registry is not maintained in the applicable state, OKDHS requests any information that the state can provide.

(g) **New household members in the resource home.** ■ 2 The resource parent notifies the resource specialist within 24 hours of a new household member in the resource home. A resource family's failure to notify the resource specialist of a new household member, or the refusal of a household member who remains in the home to consent to a background information search, is cause for the foster care child's removal of the ~~foster care child~~ from the resource home, possible closure of the resource home, and

cancellation of the foster care contract.

(1) OKDHS completes a background information search, per this Section, for persons 18 years of age and older residing in the resource home for 30-calendar days or more. The resource parent's child who reaches 18 years of age is considered in this category.

(2) An adult household member that moves into the resource home must consent to a background information search and be fingerprinted immediately after notification to the resource specialist.

(3) The resource parent's child who turns 18 years of age must consent to a background information search and be fingerprinted within 30-calendar days of turning 18 years of age.

(4) Any child, 13 through 17 years of age who moves into the home, must have a JOLTS check completed immediately.

**(h) Kinship applicant criminal history records searches after normal business hours or on a holiday. ■ 3** In determining the suitability of the potential kinship home, OKDHS uses the OKDHS Office of Background Investigations (OBI) to perform a name-based state and federal criminal history records search, per Section 901 et seq. of Title 28 of the Code of Federal Regulations. When OBI is not operational, OKDHS may elect to contract or otherwise collaborate with local law enforcement agencies to perform a name-based state and federal criminal history records search followed by fingerprint verification. Fingerprint verification must be completed within five-business days immediately after the child entered emergency placement, per 10A O.S. § 1-7-115.

**(i) Assessment of background information search results. ■ 4, 7 through 9**

(1) **Felony convictions. ■ 5** OKDHS denies a resource home application when the applicant, or any person residing in the applicant's home, has a criminal conviction record for any felony offenses listed in (A) through (E) of this paragraph. The criminal conviction of an approved resource parent or any person residing in the resource home of any of the felony offenses listed in (A) through (E) of this paragraph requires the resource home's closure of the resource home, cancellation of the foster care contract, and removal of every child in OKDHS custody from the home. The felony offenses are:

(A) physical assault, battery, or a drug-related offense, when the conviction occurs within the five-year period preceding the application date; ■ 6

(B) child abuse or neglect;

(C) spousal abuse or domestic abuse;

(D) a crime against a child including, but not limited to, child pornography; or

(E) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in (A) of this paragraph. Per 21 O.S. § 692, homicide includes manslaughter. Per Section 16 of Title 18 of the United States Code, a crime involving violence means, an offense that:

(i) has an element of the use, attempted use, or threatened use of physical force against the person or property of another; or

(ii) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(2) **Sex-related crimes.** OKDHS denies the application to become a resource parent;

when the applicant:

(A) or any person residing in the applicant's home, has a conviction for any crime, felony, or misdemeanor, ~~specified in~~ per 57 O.S. § 582, whether the conviction occurred upon a:

- (i) verdict;
- (ii) plea of guilty; or
- (iii) plea of nolo contendere; or

(B) is subject to, living with, or married to a person who is subject to the Oklahoma Sex Offender Registration Act.

(3) **Restricted Registry.** OKDHS denies the application to become a resource parent, when the applicant is a registrant on the Restricted Registry, per 10 O.S. § 405.3.

(4) **Arrests, charges, or other convictions.** Approval of an applicant who has, or is, living with a person who has a history of arrests, charges, or convictions for any felony, other than those listed in (1) of this subsection, or a relevant misdemeanor may be approved as a resource parent on a case-by-case basis. A relevant misdemeanor includes:

- (A) assault and battery;
- (B) alcohol- or drug-related offenses;
- (C) domestic violence; or
- (D) other offenses involving the use of physical force or violence against the person or property of another.

(5) **Child abuse and neglect investigations.** OKDHS determines, ~~on a case-by-case basis,~~ the approval of any resource applicant with a history of child abuse and neglect investigations on a case-by-case basis. ■ 9

## **INSTRUCTIONS TO STAFF 340:75-7-15**

**Revised ~~9-15-21~~ 1-22**

**1. Background information searches.** All background information searches, except for Juvenile Online Tracking System (JOLTS) searches, are completed for each applicant and adult household member using current and previous names, aliases, and Social Security numbers.

**(1) Oklahoma State Bureau of Investigation (OSBI) and Federal Bureau of Investigation (FBI) criminal history records searches.**

**(A) Background information search authorization.**

**(i) The child welfare (CW) specialist advises the applicant and adult household members that their signatures on Form 04AD003E, Request for Background Check, authorize Oklahoma Human Services (OKDHS) to complete background information searches.**

**(ii) When assessing kin for immediate placement, the applicant or adult household member gives his or her verbal consent.**

**(iii) The CW specialist follows up with the applicant and adult household members and obtains their signatures on Form 04AD003E.**

**(B) OSBI and FBI fingerprinting criminal history records search process.** The CW specialist follows the procedure to obtain, share, and process an OSBI name and criminal history records search and an FBI national

criminal history records search as outlined in (i) through (iv) of this subparagraph.

- (i) For offices with live scan fingerprinting, the CW specialist:
  - (I) makes an appointment for every applicant and adult household member to obtain fingerprints and submits Form 04AD003E to the OKDHS Office of Background Investigations (OBI) for the OSBI records search and FBI national criminal history records search; and
  - (II) files a copy of Form 04AD003E for each applicant and adult household member in the resource file.
- (ii) For offices without live scan fingerprinting, the CW specialist:
  - (I) provides two fingerprint cards to the applicant and every person 18 years of age and older residing in the applicant's home;
  - (II) provides the applicant with an automated fingerprinting authorization obtained through Finance AS400;
  - (III) instructs the applicant to take the authorization and fingerprint cards to local law enforcement or a fingerprinting agency for fingerprinting services. The applicant returns the cards to the CW specialist once fingerprinting is completed;
  - (IV) checks the applicant's and adult household member's fingerprint cards for accuracy and forwards the cards and Form 04AD003E, to OBI for the OSBI records search and the FBI national criminal history records search; and
  - (V) when the fingerprint cards are rejected and reprinting is necessary, returns the cards to the person whose fingerprints were rejected and instructs ~~the person, whose fingerprints were rejected,~~ him or her to take the cards to the original vendor, who reprints the person's fingerprints at no additional charge.
- (iii) An individual missing fingers must submit fingerprint cards with the identifying information completed, stating the reason why he or she is missing fingers.
- (iv) Fingerprint results for each applicant and adult household member are placed in separate manila envelopes with the names and resource numbers written on the outside of the envelopes and stored in a locked file cabinet. The received date is documented as the processing date of the OSBI and FBI search results in the KIDS Criminal Background Check screen.

(C) Fingerprint addendum. The resource specialist completes Form 04AF033E, National Criminal History Records Search Results – Addendum, for each adult household member when the national criminal history record search results are received.

- (i) When no record is found or the results are the same as the OSBI name-based search, the addendum is completed and filed in a manila envelope with the national criminal history record search results based on fingerprints.
- (ii) When the results are different from the OSBI name-based search,

**the resource specialist:**

- (I) discusses the results with the applicant or adult household member;**
- (II) completes Form 04AF033E;**
- (III) obtains the applicant's or adult household member's signature on the addendum; and**
- (IV) files the addendum in the manila envelope with the appropriate national criminal history record search results based on fingerprints.**

**(D) Exception to fingerprinting procedures. An individual with a severe physical condition that prevents him or her from caretaking and being fingerprinted may not be required to submit a fingerprint card. The resource specialist may request a fingerprint exception from OBI.**

- (i) The resource specialist submits an email to OBI staff requesting an exception to fingerprinting for the non-caretaker with the severe physical condition.**
- (ii) OBI requests a fingerprinting exception from the OKDHS Director or designee. Upon authorization, OBI requests an OSBI name-based criminal history search.**
- (iii) The resource specialist is notified by email and a copy of the document granting the permanent exception to the fingerprint requirement is filed in the resource file and scanned into the KIDS Resource File Cabinet.**
- (iv) The resource specialist documents the fingerprint exception into the KIDS Crime screen.**
- (v) The resource specialist continues the individual's assessment, as with any other adult household member, including determining the level of interaction with the child.**

**(E) OSBI record of arrest and prosecution (RAP) Back service. RAP Back is a service offered to Oklahoma non-criminal justice government agencies for non-criminal justice purposes, such as the resource parent application, continued approval decisions, and trial home reunification.**

- (i) The RAP Back service is not associated with the national criminal history records search and details only subsequent Oklahoma arrests after an individual's fingerprints were submitted to OSBI and FBI for non-criminal justice purposes.**

**(I) A yearly OSBI background check is not necessary because RAP Back reports are sent when a resource parent or adult household member is arrested.**

**(II) Fingerprinting for a national criminal history records search is necessary every five years for active resource parents.**

- (ii) OBI receives and distributes RAP Back reports ~~are received and distributed by OBI~~ to the Resource Unit where the report:**

**(I) is scanned into the KIDS Resource File Cabinet;**

**(II) on any open resource is emailed to the assigned resource specialist, resource supervisor, and resource field manager. A**

phone call is made to the resource field manager to verify receipt;  
and

(III) is forwarded by the OKDHS resource family partner (RFP) liaison to a supported home's RFP.

(iii) The resource specialist:

(I) obtains the police report and disposition of the criminal arrest or charge detailed on the RAP Back report;

(II) determines, upon consultation with the resource supervisor and resource field manager, if a written plan of compliance, an abuse or neglect referral, or closure of the home is warranted;

(III) when an abuse and neglect referral is not assigned, contacts the resource parent to address and assess the information, ~~when an abuse and neglect referral is not assigned~~;

(IV) ensures the safety and well-being of each child placed in the resource home; and

(V) documents the information in the KIDS Resource Criminal Background screen.

(iv) The Resource Unit and OKDHS Legal Services (LS) provide consultation regarding RAP Back information and related action steps.

(v) RAP Back reports received regarding persons in a closed resource home are scanned into the KIDS Resource File Cabinet by the Resource Unit.

(vi) OBI maintains an electronic log of RAP Back reports.

(2) Court records search. A search is completed to determine if the applicant or any adult household member is, or was, a party to a court action and, if so, the disposition of the criminal charges or court involvement. When the court records search indicates the applicant or any adult household member is named in any protective order case, a traffic case involving drugs or alcohol, or a criminal case that is not an automatic bar for considering the applicant as a resource parent, the resource specialist obtains copies of the court information and the underlying law enforcement records. This information is reviewed and discussed with the applicant or adult household member to assess the home's suitability and safety for a child's placement in the home. The results are documented on Form 04AF007E, Records Check Documentation, filed in the resource file, and scanned into the KIDS Resource File Cabinet. The resource specialist searches the:

(A) Oklahoma State Courts Network at [www.oscn.net](http://www.oscn.net);

(B) Oklahoma Department of Corrections (DOC) offender information and lookup at <http://doc.ok.gov/>;

(C) Oklahoma District Court Records at [www.odcr.com](http://www.odcr.com); and

(D) Mary Rippy Violent Crime Offender Registry search at <http://sors.doc.state.ok.us/>. To search for violent and/or offenders or sex offenders, a free, self-initiated search of the Mary Rippy Violent Crime Offender Registry is conducted at the website by selecting:

(i) Violent Offenders Registry and reading the website, agreeing to the

terms, and entering the search information; and

(ii) Sex Offenders Registry and reading the website, agreeing to the terms, and entering the search information.

**(3) OKDHS records search.**

**(A) OKDHS records.** The resource specialist completes a search of all OKDHS records including the CW history. A search is completed using the Information Management System (IMS) and KIDS. Each adult household member is searched using name, date of birth, and Social Security number. When the applicant or any household member discloses previous CW involvement in another state, regardless of when it occurred, the resource specialist requests the records from that state. The information is recorded on Form 04AF007E, filed in the resource file, and scanned to the KIDS Resource File Cabinet.

**(B) Community Services Worker Registry.** The resource specialist completes a search at <https://cswrpublic.okdhs.org/cswrpublic>. When an individual's name is located on the Community Services Worker Registry, the information is included in the overall assessment. When an individual's name is located on the Community Services Worker Registry, the applicant cannot be approved without a resource field manager's approval.

**(C) Restricted Registry.** The resource specialist completes a search at <https://ccrrpublicjl.okdhs.org/ccrrpublicjl/public/>. When an individual's name is located on the Restricted Registry, the applicant is denied.

**(4) Oklahoma State Department of Health (OSDH) Nontechnical Services Workers Abuse Registry.** The resource specialist completes a search at <https://www.phin.state.ok.us/nar/>. When an individual's name is located on the Oklahoma State Department of Health Nontechnical Services Workers Abuse Registry, the information is included in the overall assessment. When an individual's name is located on the OSDH Nontechnical Services Workers Abuse Registry, the applicant cannot be approved without a resource field manager's approval.

**(5) Out-of-state child abuse and neglect registry information search.** When a state that maintains a child abuse and neglect registry does not respond to an information request, the resource field manager notifies a Foster Care and Adoptions deputy director who contacts the Administration for Children and Families regional office for assistance.

**(A)** The resource specialist documents the name of each state contacted and the efforts made to obtain the information in the KIDS Pre-Resource Contacts, but does not place the child until the required registry searches are received.

**(B)** When a child abuse and neglect registry is not maintained by a state and the state is unable to provide any information, the:

(i) attempt is documented in KIDS; and

(ii) a Foster Care and Adoptions deputy director determines if placement approval may proceed when the resource home is otherwise approved.

- (6) JOLTS search. The resource specialist completes a JOLTS search on any child living in the home who is not in OKDHS custody, who and is 13 through 17 years of age, living in the home. The results are documented on Form 04AF007E, filed in the resource file, and scanned into the KIDS Resource File Cabinet. The CW specialist attempts to obtain associated Oklahoma Office of Juvenile Affairs and law enforcement report when a JOLTS record is found.
2. Criminal history records searches for adults in the home more than 30-calendar days per year and for new household members.
    - (1) A criminal history records search is completed for every adult who engages in a pattern of overnight visitation for more than 30-calendar days per calendar year.
    - (2) The resource specialist must complete a background check and fingerprints on a new adult living in the home immediately after notification that a new adult is living in the home. The resource specialist assesses the new adult as another household member and completes an addendum to the home study within 30-calendar days.
  3. Kinship applicant criminal history records search after normal business hours or on a holiday.
    - (1) The CW specialist requests a name-based criminal history records search from OBI.
      - (A) The CW specialist gives OBI the name, race, gender, date of birth, and Social Security number of each person 18 years of age and older living in the household considered for the child's emergency placement.
      - (B) Each adult household member gives his or her verbal consent to initiate the search.
      - (C) When requested by Child Welfare Services (CWS), OBI immediately conducts the requested name-based criminal history records search, provides a verbal response on each person's criminal history, orders of protection, and outstanding warrants.
      - (D) The failure of any adult living in the household to permit a name-based criminal history records search results in placement denial.
    - (2) When OBI is not operational, the CW specialist asks ~~local~~ law enforcement to conduct a name-based ~~National Crime Information Center (NCIC)~~ FBI Interstate Identification Index (III) criminal history search. With ~~an NCIC~~ a FBI III history search, fingerprints for the applicant and each adult household member must be provided and submitted to OSBI within five-business days.
      - (A) OKDHS gives ~~local~~ law enforcement the name, race, gender, date of birth, and Social Security number of each person 18 years of age and older living in the household considered for the child's emergency placement.
      - (B) Each adult household member gives his or her verbal consent to initiate the search.
      - (C) When requested by OKDHS, ~~local~~ law enforcement immediately conducts the requested name-based state and federal criminal history

records searches, provides a verbal response on each person's criminal history, protection orders, and outstanding warrants.

(D) The failure of any adult living in the household to permit a name-based criminal history records search or, submit a full set of fingerprints, and provide written permission authorizing OKDHS to forward the fingerprints to OSBI for an FBI national criminal history records search within the required five-business days results in placement denial or the child's immediate removal from the potential kinship resource home.

(E) When placement is made, OBI forwards fingerprints to OSBI within 15-calendar days after the results of the preliminary name-based records check are received.

(3) The CW specialist documents the criminal history records search by local law enforcement in the KIDS Resource Contacts and submits signed Form 04AD003E to OBI the next business day.

4. Guide to assess background history. The Assessment of Background Information of Resource Applicants, included on CWS Numbered Memo 15-13, is utilized by resource specialists to assess the applicant's and household member's criminal histories, CW histories, JOLTS information, or other concerning histories, such as protective orders, traffic offenses, money judgement, or multiple marriages.
5. Certain felonies prohibit applicant approval. OKDHS does not grant exceptions for felony convictions listed in Oklahoma Administrative Code (OAC) 340:75-7-15, for a potential or an approved resource parent or for anyone residing in the potential or approved resource home.
6. Drug-related offenses. An alcohol-related felony conviction is a drug-related offense and prohibits approval of an applicant as a resource parent, when the conviction occurred within five years preceding the application date.
7. Other related crimes, charges, and convictions. The resource specialist conducts a thorough assessment of the risk potential to the child when there is any felony or relevant misdemeanor, criminal arrest, or a conviction history regarding the applicant or an adult household member.
8. Information and history assessment.
  - (a) Background information. Information The resource field manager reviews for approval or denial the applicant's and adult household member's background information that includes:
    - (1) physical violence;
    - (2) sexual components; or
    - (3) substance use or abuse ~~must be reviewed and approved or denied by the resource field manager.~~
  - (b) CW history. The resource specialist and resource supervisor review all referrals, whether screened-out or accepted, investigations, reports to the district attorney, and appeals.
    - (1) When an applicant or household member has CW history, consideration is given to the:
      - (A) nature of the referral;
      - (B) assessment conclusion or investigation finding;

- (C) nature and seriousness of the alleged or confirmed abuse or neglect;
  - (D) time elapsed since the referral;
  - (E) circumstances under which the abuse or neglect occurred;
  - (F) degree of rehabilitation, including verifiable documentation;
  - (G) number and disposition of referrals; and
  - (H) child's safety in the home.
- (2) When the CW history is concerning, the resource field manager, or when he or she is unavailable, a Foster Care and Adoptions deputy director, is included in the CW history assessment. For assessment purposes, the applicant is approved or denied based on the CW history.
- (3) The discussion and basis for the approval or denial is documented in a KIDS Pre-Resource or Resource Contact.
- (c) Criminal or delinquency history. The resource specialist and resource supervisor review all criminal arrest and conviction histories for each applicant, adult household member, or a child with a JOLTS record.
- (1) When assessing criminal or delinquency history, a:
- (A) homicide includes any type of murder, manslaughter, or other charge involving a person's death; and
  - (B) relevant misdemeanor may include, but is not limited to:
    - (i) assault and battery;
    - (ii) alcohol- or drug-related offenses;
    - (iii) domestic violence; or
    - (iv) other offenses involving the use of physical force or violence against the person or property of another.
- (2) According to Oklahoma Statutes, a deferred sentence means a defendant entered a plea of guilty or nolo contendere; however, the court agreed to withhold a legal finding of guilt on the condition the defendant completes the terms of the deferred sentence imposed by the court. As such, the plea entered by the defendant is not a conviction to the underlying criminal charge but may be considered in determining the applicant's suitability to be a resource parent although the applicant was granted a deferred sentence.
- (3) The resource specialist and resource supervisor consider all relevant issues when assessing the applicant's appropriateness or suitability to be a resource parent.
- (4) Assessment of charges and convictions includes consideration of, but is not limited to, the:
- (A) nature and seriousness of the criminal history;
  - (B) type of crime committed and charges with a detailed description of how and why the crime was committed;
  - (C) time elapsed since the crime or conviction;
  - (D) deferment's length or length and type of sentence imposed;
  - (E) completion date of the deferment and/or sentence;
  - (F) assignment of a probation or parole officer and the officer's contact and location information;
  - (G) degree of rehabilitation, positive changes the applicant has made in his or her lifestyle since the arrest or conviction, and a description of how

- and why the changes occurred;
  - (H) applicant's self-evaluation regarding how the experience may influence children placed in the home;
  - (I) child's safety in such a placement; and
  - (J) information obtained from the applicant's references regarding knowledge of his or her previous and current lifestyle is considered when assessing the applicant's criminal history.
- (5) The resource supervisor consults the resource field manager regarding concerning-background information, including JOLTS. When the resource field manager is unavailable, a Foster Care and Adoptions deputy director is consulted. For assessment purposes, the applicant is approved or denied based on the criminal history.
  - (6) OKDHS LS is consulted as needed.
  - (7) The discussion and basis for the decision are documented in a KIDS Pre-Resource or Resource Contact.
9. Review of a decision to deny a resource home. When there is disagreement about denying an application based on criminal history records, CW history, JOLTS, or other concerning information, (1) through (3) of this Instruction are followed to obtain resolution.
- (1) A Foster Care and Adoptions deputy director and the regional deputy director consult.
  - (2) When a consensus cannot be obtained after a Foster Care and Adoptions deputy director and the regional deputy director consult, the CWS director is consulted and makes the final decision.
  - (3) OKDHS LS attorneys are consulted as needed during the review process regarding an applicant's or household member's background information.

### **340:75-7-18. Resource family assessment (RFA)**

Revised 9-17-18 2-1-22

- (a) **RFA.** Per Section 1-7-111 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-111), the Oklahoma Department of Human Services (~~DHS~~) (OKDHS) or RFA contractor conducts an assessment of the applicant's and each household member's background and other circumstances and conditions to determine if the home is suitable and provides a safe environment for the child in ~~DHS~~ OKDHS custody requiring foster care. ■ 1
- (b) **Mandate to conduct background information search.** 10A O.S. § 1-7-111 and the Oklahoma Child Care Facilities Licensing Act, 10 O.S. §§ 401 et seq. mandate that a national criminal history records search based on the submission of fingerprints and a ~~Child Abuse and Neglect Information System~~ child abuse and neglect information system check be conducted for each applicant and each household member 18 years of age and older. The applicant and each adult household member complete and sign Forms 04AF001E, Resource Family Application, and 04AD003E, Request for Background Check, ~~completed and signed by the applicant and each adult household member to~~ authorize ~~DHS~~ OKDHS to conduct a search into the applicant's and adult household member's criminal history records and ~~DHS~~ OKDHS records.
- (c) **Form 04AF004E, House assessment.** ■ 2 An in-home evaluation of the applicant's residence is conducted to assess the location, condition, and capacity to accommodate

the child in ~~DHS~~ OKDHS custody who requires foster care. Form 04AF004E includes an assessment of: (1) through (13) of this subsection.

(1) ~~the~~ The home's location. The home ~~must be~~ is accessible to school, medical, and recreational resources;

(2) ~~the~~ The home's and property's condition. The home ~~must be~~ is clean and safe and any structures on the property that are accessible to a child ~~must be~~ are in a safe condition. The home and surroundings are evaluated regarding possible safety concerns and addressed with a plan of supervision, when applicable;

(3) ~~available~~ Available play space. Adequate and safe indoor and outdoor space for play activities ~~must be~~ is available. Outdoor recreational equipment on the resource home's grounds of a ~~resource home~~, such as swing sets, riding toys, trampolines, or tree houses are clean and are maintained in good repair;

(4) ~~age-appropriate~~ Age-appropriate equipment. Age-appropriate child care equipment, such as beds, high chairs, or toys ~~must be~~ are available, clean, and in good repair;

(5) ~~phone~~ Phone communications. A An operable phone ~~must be~~ is available in the home when a child is present;

(6) ~~transportation~~ Transportation.

(A) The applicant ~~must~~:

(i) ~~maintain~~ maintains a vehicle in safe working order that is capable of transporting children and:

(I) ~~carry~~ carries the statutorily mandated vehicle liability insurance;

(II) ~~possess~~ possesses a valid driver license; and

(III) ~~have~~ has a current, valid vehicle license tag; or

(ii) ~~provide~~ provides an acceptable transportation plan for the child in ~~DHS~~ OKDHS custody.

(B) The applicant is advised that proper passenger restraints are used at all times when a child in ~~DHS~~ OKDHS custody is riding in a vehicle.

(C) The applicant agrees to transport all children and adults in compliance with applicable state law, per 47 O.S. § 11-1112;

(7) ~~sleeping~~ Sleeping arrangements and privacy.

(A) The applicant's home provides a separate bed for each child, with the exception of siblings younger than 6 years of age who exhibit a need for mutual support.

(B) A separate bedroom is provided for a child who acts out sexually.

(C) Preferably, no more than two children share a bedroom. Primary consideration is given to related children according to age and emotional needs.

(D) The applicant's home provides separate bedrooms for children 7 years of age and older of the opposite sex.

(E) A child in ~~DHS~~ OKDHS custody, with the exception of an infant who is younger than 12 months of age, does not share a bedroom with an adult in the household. Under no circumstances is a child of any age authorized to sleep with an adult.

(F) The applicant's home provides space for the child's personal possessions and for a reasonable degree of privacy.

(G) The applicant may not designate a room, such as the living room, utility room, den, dining room, pantry, or unconverted garage as a bedroom for a child in ~~DHS~~ OKDHS custody unless the room is specifically designed as a bedroom;

(8) ~~infant~~ Infant sleeping arrangements. A crib, port-a-crib, or playpen with a firm, waterproof mattress or pad is used for each child younger than 12 months of age.

(A) Cribs, port-a-cribs, and playpens with more than two and 3/8 inches between slats or between the side and end panels are not allowed.

(B) Cribs with decorative cutout areas in crib-end panels or tall decorative knobs on the corner posts that may entrap a child's head or catch the child's clothing are not allowed.

(C) Cribs with drop-side latches must have the manufacturer-provided kits to lock the crib side in the upright position due to safety hazards.

(D) Mattresses ~~must be~~ are tight-fitting with no more than one inch between the mattress and crib, port-a-crib, or playpen.

(E) Mattress and crib sheets ~~must~~ fit snugly.

(F) Soft sleeping surfaces, such as soft mattresses, waterbeds, sofas, pillows, beanbag chairs, and inflatable mats are prohibited.

(G) Pillows, quilts, comforters and blankets, sheepskins, stuffed toys, bumper pads, breathable bumper pads, and other soft products are not permitted in the infant's crib, port-a-crib, or playpen.

(H) Infants birth through three months of age may be swaddled with an infant-sized, thin fabric, such as a receiving blanket.

(I) When placed for sleeping, items, such as pacifiers, teething necklaces, and bibs, are not attached to the infant or his or her clothing.

(J) An infant is immediately moved to a crib, port-a-crib, or playpen when he or she falls asleep in other equipment.

(K) Mobiles may be securely attached or hung above the crib provided no part of the mobile is within the infant's reach; and

(9) ~~infant~~ Infant sleep positions.

(A) To reduce the risk of Sudden Infant Death Syndrome (SIDS), the infant younger than 12 months of age is placed on his or her back for sleeping, unless there is a medical reason documented by a health care professional that the infant must not sleep on his or her back. ■ 3

(B) The infant who is able to turn himself or herself over is placed initially on his or her back for sleeping but is allowed to sleep in the position he or she prefers; and

(10) ~~water~~ Water safety.

(A) Form 04MP061E, Water Safety Checklist and Agreement for Applicant or Parent, is completed for all applicants.

(B) The definition of a water structure or water mass includes, but is not limited to:

- (i) swimming pools;
- (ii) decorative ponds;
- (iii) farm ponds or streams;
- (iv) fountains;
- (v) wading pools;
- (vi) hot tubs or spas; and
- (vii) waterfalls.

(C) Any activity that involves a child in ~~DHS~~ OKDHS custody wading or swimming is supervised at all times.

(D) All applicable laws, ordinances, rules and regulations, and insurance

requirements for pools are followed.

(E) A hot tub ~~must be~~ is equipped with a hard cover designed for a hot tub.

(F) The use of portable wading pools is monitored at all times. The wading pool is emptied at the end of each use.

(G) A water safety plan is developed, and ~~signed by~~ each adult identified to provide supervision for the child during water activities signs the water safety plan. ■ 4

The water safety plan includes appropriate measures to ensure the child's safety ~~of the child~~. Appropriate measures may include, but are not limited to:

(i) fencing. A water structure or water mass is fenced to prevent unsupervised access. There is a sturdy fence:

(I) at least four feet high that cannot be easily climbed; or

(II) that connects to the top of an above-ground pool and extends two feet above the pool or follows other specified safety guidelines;

(ii) pool covers. A child-safety pool cover is placed over the water area each time the pool is not in use. Pool covers are completely removed prior to pool use;

(iii) locked doors. All doors and gates leading to the water structure, are locked;

(iv) pool alarms. Pool alarms are installed and operating when the pool is not in use;

(v) removable ladders. Removable ladders are removed from the water structure when not in use;

(vi) safety devices, such as lifejackets or rings;

(vii) swimming lessons; or

(viii) training, such as cardio-pulmonary resuscitation and first aid;\_

(11) ~~animal~~ Animal and household pet safety. ■ 5

(A) Animals are in good health, do not show evidence of carrying disease, and do not present a threat to the health, safety, or welfare of children. Appropriate supervision is required when the child in ~~DHS~~ OKDHS custody is in the presence of the family's animals.

(B) ~~Documentation~~ The applicant or parent provides documentation of current rabies vaccinations for applicable animals ~~is provided by the applicant or parent~~.

(C) When an animal bites a child, the applicant or parent obtains appropriate and immediate medical treatment and contacts the assigned child welfare (CW) specialist as soon as the child's safety is secured;\_

(12) ~~weapon~~ Weapon safety.

(A) An applicant or parent is responsible for ensuring the safety of a child in ~~DHS~~ OKDHS custody who comes within close proximity to:

(i) a firearm or other weapon; or

(ii) an individual in possession of a firearm or other weapon.

(B) Any firearm or weapon in the home must be maintained, along with any ammunition, in a secure container, cabinet, or closet or otherwise be inaccessible at all times to children who are in the home.

(C) No firearm or weapon is transported in any vehicle in which a child in ~~DHS~~ OKDHS custody is riding unless the firearm or weapon is safely secured or inaccessible to the child.

(D) A law enforcement official is exempt from (B) and (C) of this paragraph when

conditions of employment require ready and immediate access to his or her weapon.

(E) An applicant or parent licensed to carry a handgun, whether concealed or unconcealed, per 21 O.S. §§ 1290.1 et seq., the Oklahoma Self-Defense Act, may maintain the firearm in a holster secured to his or her person, per 21 O.S. § 1290.2. When the firearm is not holstered and secured to his or her person, it must be maintained as required in (A) through (C) of this paragraph.

(F) Any activity the child in ~~DHS~~ OKDHS custody participates in that involves a weapon must have appropriate adult supervision at all times. The applicant or parent obtains pre-approval for the child's participation in a weapons activity from the child's assigned CW specialist or CW supervisor ~~assigned to the child; and~~. ■

6

(13) ~~disaster~~ Disaster plans. Disaster plans are reviewed with each newly-placed child and periodically with all children in the home. The family ~~must have~~ a disaster plan that includes:

(A) a list of emergency phone numbers posted in an accessible and conspicuous place. The list includes:

(i) 911;

(ii) doctors' names and phone numbers;

(iii) health professionals or clinics;

(iv) fire and police departments;

(v) an ambulance service; and

(vi) the name and phone numbers of the alternate caregiver;

(B) access to a phone at all times when a child in ~~DHS~~ OKDHS custody is present;

(C) an evacuation plan in the event of a fire, tornado, earthquake, flood, ice storm, or other natural, state, or national disaster;

(D) first aid procedures and supplies;

(E) a planned source of available medical care, such as a hospital emergency room, clinic, or health care professional;

(F) a plan of whom to contact when there is an accident, an incident involving the child in ~~DHS~~ OKDHS custody, or he or she runs away or is abducted; and

(G) a plan of whom to contact and community resources to access when the child in ~~DHS~~ OKDHS custody has behavioral problems.

(d) **Number of children in the home.** ~~DHS~~ OKDHS determines the number and ages of children placed in each resource home.

(1) **Maximum number of children allowed to reside in the resource home.** The total number of children in ~~DHS~~ OKDHS custody placed in a resource home does not exceed five. The total number of children in the resource home does not exceed six, which includes biological, adoptive, foster, and other children not in ~~DHS~~ OKDHS custody. ~~Per Oklahoma Administrative Code (OAC) 340:75-7-41, approval~~ Approval to exceed these limits may be given, ~~for circumstances, such as, but not limited to:~~

~~(A) placing to allow:~~

~~(i)(A) siblings together~~ a parenting youth in foster care to remain with his or her child; or

~~(ii)(B) a child in the home where he or she was previously placed~~ siblings to remain together;

~~(iii)(C) a child with an established meaningful relationship with the family to remain with the family; or~~  
~~(iv)(D) a family with special training or skills to provide care to a child who has a severe disability.~~

~~(B) proximity:~~

~~(i) to the child's family for visitation and for bridging the parent-child and parent-resource parent relationship; or~~

~~(ii) of the resource home to specialized services needed by the child in DHS custody;~~

~~(C) enabling an older child to remain in his or her educational placement; or~~

~~(D) approving a caregiver who has unique abilities to address a child's specific needs.~~

(2) **Maximum number of children younger than 2 years of age allowed in a resource home.** No more than two children younger than 2 years of age including the resource parent's own children may reside or be placed in the resource home.

(3) **Child in DHS OKDHS custody placed in a tribal home.** The number of children in DHS OKDHS and tribal custody allowed to reside in a tribal resource home is determined by the applicable tribe. When a child in DHS OKDHS custody is placed in a tribal home and placement exceeds six children, overfill procedures are followed.

■ 7 An Indian child in DHS OKDHS custody is placed in compliance with the placement preferences of the Indian Child Welfare Act, per OGA Oklahoma Administrative Code (OAC) 340:75-19.

(e) **Authorization to check applicant's references.** The applicant grants DHS OKDHS and RFA contractors permission to contact the applicant's references by signing Form 04AF001E, Resource Family Application. Information obtained from the references is confidential and can only be released upon order of a court with competent jurisdiction ■ 8 & 9

(f) **Assessment of applicant's marital and relationship history.** The applicant must have stable relationships whether married, single, separated, or divorced. The applicant's ability to develop and sustain stable relationships is assessed and documented. ■ 10

(g) **Household income.** The applicant completes Form 04AF010E, Resource Family Financial Assessment, and provides documentation of employment, income, and expenditures as a an assessment component of the ~~assessment~~. The applicant provides verification that he or she can manage personal and household financial needs without relying on the foster care maintenance payment. The applicant must have sufficient income or community resources to meet the needs of an additional child placed in his or her home until the foster care maintenance payment for the child in DHS OKDHS custody is received.

(h) **RFA disposition.** ■ 11 Upon completion of the RFA, a decision regarding approval or denial is made after assessing the information gathered.

(1) The assessment process is completed and the determination regarding approval or denial is made no later than 60-calendar days after receipt of completed Form 04AF001E.

(2) DHS OKDHS may approve or deny an applicant as a resource when the applicant or the home meets or does not meet requirements, per OAC 340:75-7.

(3) DHS OKDHS makes the final determination of application denial, which may occur

at any point during the process.

(i) **Exceptions to assessment guidelines.** ■ 12 Upon the applicant's or CW specialist's request, ~~DHS~~ OKDHS may, at its discretion, grant an exception of specific rules or standards that do not compromise a child's safety or well-being and does not violate federal or state statutes for kinship resource homes only. Exceptions may be granted, provided adequate standards affording protection for the child's health, safety, and welfare ~~of the child~~ exist and are met in lieu of the exact requirements of the rule or standard in question. For traditional resource homes, OKDHS may, at its discretion, grant a variance of specific rules or standards that do not compromise a child's safety or well-being and do not violate federal or state statutes.

(j) **Application denial.** When a decision is made to deny an applicant as a resource parent, the applicant is provided an explanation regarding the reasons for the denial. When the denial pertains to a kinship resource home, the child in ~~DHS~~ OKDHS custody is immediately moved from the applicant's home. Reasons for denying an application may include, but are not limited to:

- (1) a lack of stable, adequate income to meet the applicant's own or total family needs, or the poor management of available income;
- (2) the physical facility is inadequate to accommodate the addition of the child in ~~DHS~~ OKDHS custody into the home, or presents health or safety concerns;
- (3) a household member that has a history of alleged or confirmed child abuse, neglect, or both, per OAC 340:75-7-15;
- (4) a household member that has a history of arrests or convictions, per OAC 340:75-7-15;
- (5) any household member's health, behavioral health, or any condition that impedes the applicant's ability to provide appropriate care for a child;
- (6) relationships in the household that are unstable and unsatisfactory;
- (7) ~~the~~ references that are guarded or have reservations in recommending the applicant;
- (8) the applicant fails to complete the application, required training, or verifications in a timely manner, as requested, or provides incomplete, inconsistent, or untruthful information;
- (9) the home is determined unsuitable for the child requiring placement;
- (10) the applicant applied for a child that ~~DHS~~ OKDHS reasonably believes may not be available for placement; or
- (11) one or more factors concerning any household member, or conditions in the home, as described in the denial letter, renders the applicant or home environment inappropriate as a resource home.

(k) **Authority to approve or deny resource home and Interstate Compact on the Placement of Children (ICPC) assessments.** ~~DHS~~ OKDHS determines the final disposition of each resource home and ICPC assessment completed by ~~DHS~~ OKDHS or RFA contractors.

(l) **Changes in the household.** ■ 13 The applicant or parent must notify the resource specialist or RFA contractor:

- (1) immediately of any:
  - (A) charges, arrests, or any alleged illegal activity committed by the applicant or any household member; and

- (B) proceeding for a protective order filed by, or against the applicant, or any household member; and
- (2) within 24 hours of any change in the household including, but not limited to:
  - (A) the address or the home's location, including emergency home displacement;
  - (B) any significant change in the home that impacts the family's day-to-day living;
  - (C) the death or serious illness of a resource parent;
  - (D) health;
  - (E) income;
  - (F) individuals moving in or moving out of the home for any reason; or
  - (G) new or terminated relationships.

## **INSTRUCTIONS TO STAFF 340:75-7-18**

**Revised ~~9-15-202~~-1-22**

1. **Resource family assessment (RFA).** The RFA is completed by Oklahoma Human Services (OKDHS) resource specialists or an RFA contractor. The written assessment describes the family based on complete, consistent, and truthful information gathered by the resource specialist or an RFA contractor gathers in conjunction with the family, following a an application review of the application and a background information summary of background information.
  - (1) **Initial visit.** The resource specialist or RFA contractor conducts the initial consultation with the family in the family's home to answer questions, explain the mutual assessment process and training requirements, and assess the home's safety. Observations are documented on Form 04AF004E, House Assessment.
  - (2) **Guidelines and form.** The resource specialist or RFA contractor uses Form 04AF002E, Guidelines for Resource Family Assessment, to obtain information regarding the family. When the resource specialist or RFA contractor is completing the RFA, the information is written on Form 04AF003E, Resource Family Assessment.
  - (3) **Review of resource assessment forms.** The resource specialist or RFA contractor reviews Forms:
    - (A) 04AF010E, Resource Family Financial Assessment;
    - (B) 04AF001E, Resource Family Application;
    - (C) 04AF008E, Medical Examination Report, received by the resource specialist or RFA contractor as soon as possible or prior to the final consultation visit;
    - (D) 04AF039E, Child(ren)'s Health Statement;
    - (E) 04AF017E, Resource Parent Health History;
    - (F) 04AF018E, Child Needs Information List;
    - (G) 04AF005E, Notice to Resource Applicants;
    - (H) 04MP001E, Consent for Release of Confidential Information;
    - (I) 13HI003E, Authorization to Disclose Medical Records;
    - (J) 04AF021E, Verification of Receipt of OKDHS Rules; and
    - (K) 04AF043E, Resource Family Application Other Adults in the Home, when applicable.
  - (4) **Tribal membership.** The resource specialist verifies the applicant's tribal

- membership or tribal affiliation by obtaining a copy of the tribal membership card and submitting Form 04TB001E, Resource Family Applicant(s) Letter to Verify Tribal Membership, to the tribe to identify valid placement resources for the Indian child pursuant to the Indian Child Welfare Acts, per Oklahoma Administrative Code (OAC) 340:75-19.
2. House assessment. Per OAC 340:75-7-18(c), the resource specialist and RFA contractor conduct an evaluation of the applicant's residence to assess the location, condition, and capacity to accommodate the child in OKDHS custody, on Form 04AF004E.
  3. Infant sleeping arrangements. When there is a medical reason that an infant cannot or may not sleep on his or her back, the resource parent maintains documentation from a health care professional ~~is maintained by the resource parent~~ and a copy is filed in the resource file.
  4. Water safety. The resource specialist and RFA contractor observe all water structures and masses within sight of, or accessible to, the living structure or yard. Form 04MP061E, Water Safety Checklist and Agreement for Resource Applicant or Parent, is completed for all applicants. The water safety plan is:
    - (1) developed with each applicant;
    - (2) documented and signed by each applicant, adult household member, and resource specialist;
    - (3) provided to the applicant;
    - (4) updated when a change or an addition of a water structure or mass occurs to the resource home or property; and
    - (5) reviewed at each annual update or reassessment.
  5. Animal safety.
    - (1) Documentation of current rabies vaccinations for applicable animals is maintained in the resource file. When animals are vaccinated by someone other than a veterinarian, documentation includes the:
      - (A) vaccine proof of purchase date;
      - (B) vaccine lot number and expiration date; and
      - (C) date the animal was vaccinated.
    - (2) Inquiry is made regarding when any animal displayed aggressive behavior, bit anyone, or required restraint due to the animal's nature.
    - (3) The To determine the safety issues for children, the resource specialist or RFA contractor contacts the Oklahoma Department of Wildlife or the veterinarian of record when the applicant has an exotic animal ~~to determine the safety issues for children~~ and documents the information in the KIDS resource.
  6. (a) Weapon or firearm safety.
    - (1) A weapon includes, but is not limited to, a:
      - (A) gun, such as a pistol, revolver, shotgun, or rifle from which a projectile is fired by gunpowder, gas, or other means of rocket propulsion;
      - (B) air-powered BB or pellet gun;
      - (C) bow and arrow; or
      - (D) knife, such as a dagger or knife with a blade that opens automatically by hand pressure applied to a button, spring, or other device in the handle

- of the knife, with the exception of cooking or eating utensils.
- (2) The applicant and the resource specialist discuss in detail the applicant's plan to store and secure weapons and firearms or ensure their inaccessibility at all times to children in the home. Examples of secured weapons or firearms include, but are not limited to, storing items in a locked gun safe, biometric safe, or cabinet; using trigger locks; or removing firing pins from firearms. Weapons security and safety must be addressed during any subsequent home reassessment.
- (b) Verification of weapon exemption.
- (1) Law enforcement personnel must submit employer-provided documentation that indicates he or she is required to carry a weapon as a condition of employment.
- (2) Continuing weapons licensure and law enforcement employment must be verified during any home reassessment.
7. (a) Placement in a resource home. When evaluating placement in a resource home, consideration is given to the number of children and:
- (1) each resource parent's capabilities and skills;
  - (2) the number and ages of the resource parent's own children;
  - (3) if the home can physically accommodate the children;
  - (4) the known behavioral patterns of the resource parent's own children, the children in foster care currently residing in the home, and the prospective child;
  - (5) the presence of additional adult caregivers in the home beyond the approved resource parents; and
  - (6) the anticipated effect of the placements upon the resource family as a unit. The needs of the child placed in the resource home may restrict the home's capacity regardless of the approved number of foster care beds in the home.
- (b) Exception to the number or age limit of children placed in a resource home. The A child's placement of ~~a child~~ in a resource home that causes the home to exceed the allowed number or age limit, per OAC 340:75-7-18, requires an exception request and approval prior to placement. Approval is applicable only for the specific placement in the request.
- (1) The child welfare (CW) specialist consults with the resource specialist concerning the feasibility of an exception for a traditional or kinship resource to exceed the allowed number or age limit for placements.
  - (2) The resource specialist submits an exception request to the CW specialist, CW supervisor, and the resource supervisor that includes the:
    - (A) reason for the request;
    - (B) search results for an alternate, appropriate placement for the child;
    - (C) name and resource number of the resource family considered for the exception;
    - (D) number, gender, and ages of children:
      - (i) ~~for which~~ currently approved for the resource home ~~is currently approved~~;
      - (ii) currently placed in the home;

- (iii) for whom the request is made; and
  - (iv) of the resource family;
  - (E) date and overall results of the last resource home annual update or reassessment including a review of all previous referrals, policy violations, and written plans of compliance on the resource home;
  - (F) number of in-service training hours the resource family completed ~~by the resource family~~ in the last contract year;
  - (G) summary of the behaviors, treatment needs, and placement and permanency plans of each child currently placed, and each child included in the exception request;
  - (H) specified time requirements for the exception;
  - (I) effect of the exception on sibling placement, when any;
  - (J) summary of previous placements and exception requests for each child included in the request;
  - (K) plan for each child's transportation needs in accordance with state vehicle child safety restraint requirements;
  - (L) sleeping arrangements for each child in the resource home and the planned sleeping arrangement for the prospective child;
  - (M) effect the exception may have on the placement of each child currently in the home;
  - (N) resource specialist's recommendation regarding the exception request; and
  - (O) identification of, and a plan to provide possible services or supports needed by the children or family, to ensure a safe and stable placement.
- (3) The CW specialist documents the exception request and request date in the child's case KIDS Contacts.
  - (4) When the request is for overfill of a supported home, the resource family partner (RFP) foster care worker sends the documentation to the OKDHS RFP liaison, who documents the exception request and date in the KIDS Resource Contacts.
  - (5) The resource specialist submits the request and documentation to the resource supervisor for an exception decision and documents the submission date in KIDS Resource Contacts.
  - (6) When the home will provide care for up to seven children, the resource supervisor forwards the request to the field manager for approval or denial and notifies the resource supervisor of the decision.
  - (7) In the event the request is for the resource home to care for a total of eight or more children, the field manager reviews the request and, when in agreement, forwards the request to a Foster Care and Adoptions deputy director and the regional deputy director for the child's case for approval. A Foster Care and Adoptions deputy director consults with the regional deputy director for the child's case and notifies the field manager of the decision. The CW and resource supervisors are then notified of the decision.
  - (8) The specific needs of all children involved, the resource parents, and the family unit as a whole are the basis for consideration of the exception.
  - (9) The CW and resource supervisors notify the CW and resource specialists

of the decision.

(10) The CW and resource specialists or the OKDHS RFP liaison document the decision and plan for additional services and supports is documented in the child's and resource case KIDS Contacts by the CW and resource specialists or the OKDHS RFP liaison.

(11) When an exception is approved to overfill a resource home, regardless of the number of children placed, the CW specialists assigned to the children placed in the home review and document the plan to provide additional services or supports is reviewed and documented at the time of the monthly contact ~~by the CW specialists assigned to the children placed in the home.~~

(12) The resource specialist:

(A) makes phone contact with the family on a monthly basis. At least one in-home visit is required per quarter, unless additional home visits are part of an overfill support plan;

(B) reviews the plan to address any additional needs, services, and supports; and

(C) documents the contacts and plan review in KIDS Resource Contacts.

8. Checking applicant references. Only a trained resource specialist or an RFA contractor solicits and reviews information received from references ~~provided~~ by the applicant provides regarding the applicant's parenting strategies and skills. The applicant must have the three personal references in (1)(A) and the references (1)(B) through (H) of this Instruction to Staff (ITS), when applicable. The resource specialist or RFA contractor:

(1) documents all information provided by voluntary and applicant- provided references. The resource specialist or RFA contractor explains ~~to each person contacted as a reference~~ the program's expectations, and the children's needs of the children who come into OKDHS care, to each person contacted as a reference.

(A) Three personal references are interviewed by phone or in person, only one of whom can be a family member.

(B) When applicable, all adult children are contacted by letter, phone, or in person to complete Form 04AF015E, Resource Family Reference Letter for Adult Children.

(C) The applicant's current or most recent employer is contacted by letter, phone, or in person using Form 04AF011E, Resource Family Reference Letter for an Employer. When the applicant is self-employed, a reference is obtained from a customer.

(D) When applicable, school teachers, counselors, or administrators who have recently served the applicant's child are contacted by letter, phone, or in person using Form 04AF014E, Resource Family Reference Letter for School Personnel, to assess the applicant's involvement in educational issues.

(E) When the applicant homeschools his or her child, a person with knowledge of the applicant's homeschooling experience is contacted by letter, phone, or in person using Form 04AF025E, Resource Family Reference Letter for Homeschooling.

(F) When the applicant currently receives or received behavioral health services in the past 10 years, the behavioral health care professional is contacted using Form 04AF013E, Resource Family Assessment Reference Letter for Behavioral Health Professionals. The resource specialist or RFA contractor uses Form 13HI003E, Authorization to Disclose Medical Records, to obtain permission from the applicant to receive his or her behavioral health information. In addition to Form 04AF013E, the resource specialist requests behavioral records from the behavioral health professional.

(G) When the applicant's child currently receives or received behavioral health services in the past 10 years, the behavioral health care professional is contacted using Form 04AF012E, Child's Behavioral Health Reference Letter. The resource specialist or RFA contractor uses Form 13HI003E, to obtain permission from the applicant to receive the child's behavioral health information. In addition to Form 04AF012E, the resource specialist requests behavioral records from the behavioral health professional.

(H) When the required references do not total at least six, the resource specialist obtains additional personal references.

(I) References may be contacted for an interview when the reference fails to respond to the reference letter request or when information contained in the response requires clarification. Additional references are not contacted without the applicant's specific written permission.

(J) When voluntary references contact the resource specialist to provide information, the information is included in the assessment summary.

(K) When guarded reference information is received, the issues are fully explored with the applicant without revealing the source of the information;

(2) obtains a copy of DD Form 214, Certificate of Release of Discharge from Active Duty, to determine the type of discharge, when the applicant was discharged from the armed forces. Any discharge other than honorable is specifically addressed in the assessment as a consideration in the applicant's ability to attend to the safety and well-being of a child requiring foster care services;

(3) does not deny the continuation of the resource application process based solely on information provided by a reference. When a reference provides information requiring further explanation from the applicant, the resource specialist or RFA contractor discusses the nature of the information without revealing the source; and

(4) requests consultation with the resource supervisor and field manager to determine the significance of the information provided by a reference, who:

(A) has a history of abuse ~~and/or~~, neglect, or both that includes victimization by the applicant;

(B) disagrees with the applicant's desire to foster; or

(C) has other concerns about his or her ability to parent.

9. Checking other adult references. References are obtained for any individual in

the home, 21 years of age and older. When there are concerns about a younger adult in the home, references are requested. Only a trained resource specialist or an RFA contractor solicits and reviews information received from references ~~provided by the other adult~~ provides about his or her parenting strategies and skills. The other adult must have the one personal reference in (1)(A) and the references (1)(B) through (E) of this ITS, when applicable. The resource specialist or RFA contractor:

(1) documents all information from voluntary and other provided references. The resource specialist or RFA contractor explains the program's expectations and the needs of children who come into ~~DHS~~ OKDHS care to each person who is contacted as a reference.

(A) One personal reference is interviewed by phone or in person and cannot be a family member.

(B) When applicable, all adult children are contacted by letter, phone, or in person to complete Form 04AF015E, Resource Family Reference Letter for Adult Children.

(C) The current or most recent employer of the other adult in the home is contacted by letter, phone, or in person using Form 04AF011E, Resource Family Reference Letter for an Employer. When the adult is self-employed, a reference is obtained from a customer.

(D) When the other adult currently receives or received behavioral health services in the past 10 years, the behavioral health care professional is contacted using Form 04AF013E, Resource Family Assessment Reference Letter for Behavioral Health Professionals. The resource specialist or RFA contractor uses Form 13HI003E, Authorization to Disclose Medical Records, to obtain permission from the other adult to receive his or her behavioral health information. In addition to Form 04AF013E, the resource specialist requests behavioral records from the behavioral health professional.

(E) When the required references do not total three, the resource specialist obtains additional personal references;

(2) does not deny the continuation of the resource application process based solely on information ~~provided by a reference~~ provides. When a reference provides information requiring further explanation from the other adult, the resource specialist or RFA contractor discusses the nature of the information without revealing the source; and

(3) requests consultation with the resource supervisor and field manager to determine the significance of the information ~~provided by a reference~~ provides, who:

(A) has a history of abuse ~~and/or~~ neglect, or both that includes victimization by the other adult; or

(B) has other concerns about his or her ability to parent.

10. Marital and significant relationship history. A copy of the current marriage license, each divorce decree, legal separation, and annulment document, when applicable, is obtained. The resource specialist carefully reviews all applicable divorce decrees for custody arrangements and any information that indicates

the applicant was not appropriate around children.

(1) When there is a child from a previous marriage, the child's role in the family is discussed, and emotional and financial child support, when applicable, is documented.

(2) The applicant's ability ~~of the applicant~~ to develop and sustain stable relationships is assessed and documented in the RFA.

11.(a) RFA disposition. The RFA is approved or denied within 60-calendar days after receipt of completed Form 04AF001E, Resource Family Application. The resource specialist:

(1) reviews Forms 04AF002E, Guidelines for Resource Family Assessment, and 04AF003E, Resource Family Assessment, for content;

(2) shares the RFA with the applicant for his or her input prior to the decision to select if he or she is in or out of the resource program; and

(3) consults with his or her resource supervisor and, when necessary, the field manager to determine the assessment disposition.

(b) Disposition results. Disposition of the assessment may result in: (1), (2), or (3) of this subsection.

(1) ~~voluntary~~ Voluntary withdrawal of the application. During the assessment, the applicant is advised of any condition that does not conform to resource requirements, per OAC 340:75-7 Part 2. When the applicant and resource specialist or RFA contractor mutually decide to postpone the resource family assessment process to afford the applicant the opportunity to resolve issues of concern, the applicant withdraws from the resource program. When the applicant withdraws the application, the resource specialist sends a letter of confirmation documenting the withdrawal; ~~or,~~

(2) RFA approval.

(A) The resource specialist or RFA contractor reviews and discusses the assessment, except for the protected information and reference sections, with the applicant for content clarification ~~of content~~.

(B) The resource specialist, resource supervisor, and applicant sign Form 04AF003E and a copy, except for the protected information and reference sections, is provided to the applicant. The home is not considered approved until the:

(i) applicant meets training requirements;

(ii) national criminal history records search results based on fingerprints are received and reviewed; and

(iii) resource supervisor reads and signs the RFA.

(C) Prior to the initiation of foster care maintenance payments, the applicant, per OAC 340:75-7-52, signs the foster care contract.

(D) The resource specialist provides the family with the Foster Parent Handbook upon placement or signing the contract and documents receipt in KIDS Resource Contacts.

(E) Each resource parent signs Forms:

(i) 15GR008E, Notice of Grievance Rights Foster Parents; and

(ii) 10CO135E, Vendor Information (Substitute W-9).

(F) The resource specialist:

- (i) copies the KIDS Pre-Resource to a Resource for each approved resource home except when the child in OKDHS custody is in a kinship placement, per OAC 340:75-7-24;
  - (ii) end dates the KIDS Pre-Resource after conversion to a KIDS Resource;
  - (iii) scans the signed assessment and documentation into the KIDS Resource ~~File Cabinet~~ document management system (DMS); and
  - (iv) requests approval of the Family Assessment Line in KIDS.
- (G) After signing the RFA, the resource supervisor approves the Family Assessment Line in KIDS within two-business days for a kinship resource home and within five-business days for a traditional resource home;
- (3) ~~denial of the resource~~ Resource home application denial.
- (A) Before the resource home application is denied, the resource specialist:
- (i) shares the information with the resource supervisor;
  - (ii) consults with the field manager when determining whether to deny an application;
  - (iii) staffs with Permanency Planning when denying a kinship home application;
  - (iv) documents all information obtained in the resource file and KIDS Pre-Resource or Resource Contacts;
  - (v) documents and summarizes the reasons for application denial including identification of supporting documentation in KIDS Pre-Resource or Resource Contacts;
  - (vi) references the contact entry date from (v) in the Application tab of the Results screen comments box in the Pre-Resource or in the Resource closure screen; and
  - (vii) scans the documentation into the KIDS Pre-Resource or Resource ~~File Cabinet~~ DMS and closes the Pre-Resource or Resource.
- (B) When possible, the resource specialist makes face-to-face or phone contact with the applicant to clarify the reason for denying the application.
- (C) Form 04FC020E, Notice of Denial to Resource Applicant, is sent to the applicant stating the reason for the application denial. Relevant OKDHS rules or procedures are cited and attached to the letter.
- (D) The resource specialist denying the relative placement:
- (i) completes Form 04MP056E, Notice to the Court of Relative Denied Placement that includes clear documentation of the safety concerns and risks to a child;
  - (ii) provides original Form 04MP056E to the requesting CW specialist who ~~requested the assessment of the relative placement is responsible for submission~~ submitting to the court of jurisdiction the assessment of the relative placement; and
  - (iii) scans it into the KIDS Pre-Resource or Resource ~~File Cabinet~~ DMS and files a copy in the resource file.

## 12. Exceptions to assessment guidelines.

- (1) The resource specialist submits Form 04AF042E, Request for Exception or Variance to Resource Requirements, to the resource supervisor for an exception or variance to the requirements listed in OAC 340:75-7 Part 2.
- (2) When in agreement with an ~~exception~~ the request, the resource supervisor sends Form 04AF042E to the field manager for review.
- (3) The field manager approves or denies the ~~exception~~ request and signs Form 04AF042E and a Foster Care and Adoptions deputy director is consulted when needed. Form 04AF042E is scanned into the KIDS Resource File Cabinet DMS.
- (4) The resource specialist documents the request and response in KIDS Resource Contacts.

### 13. Changes in the resource family household.

- (1) The resource parent immediately notifies the resource specialist of any:
  - (A) charges, arrests, or any alleged illegal activity ~~committed by the applicant or any household member~~ commits; and
  - (B) proceeding for a protective order filed by or against the applicant or any household member.
- (2) The resource parent notifies the resource specialist within 24-hours of any household change including, but not limited to:
  - (A) the address or the home's location, including emergency home displacement;
  - (B) any significant change in the home that impacts the family's day-to-day living;
  - (C) the resource parent's death or serious illness;
  - (D) any household member's health;
  - (E) income;
  - (F) individuals moving in or moving out of the home for any reason; or
  - (G) new or terminated relationships.
    - (i) When the resource parents divorce, separate, or the relationship ends, the person who continues to foster retains the existing resource number and information.
    - (ii) An addendum is completed and documented in KIDS Resource Contacts to reflect the household changes.
    - (iii) A new Form 04AF010E is completed to address any change to the household's financial status.
    - (iv) The Out-of-House Date and Reason are entered in KIDS Resource Homes screen.
    - (v) When both resource parents want to continue to foster, the primary resource parent maintains the original KIDS resource number and another resource is opened cross-referencing the original resource number.
    - (vi) When the primary resource parent does not want to continue fostering and the designated head of household (HOH) 2 elects to foster, he or she becomes HOH 1 in the existing KIDS Resource. The person who wants to continue fostering signs a new foster care contract, per OAC 340:75-7-52, and a new contract number is

assigned.

(vii) When neither resource parent wants to foster, the KIDS Resource is closed.

(3) The resource specialist addresses any household changes or serious illnesses with the resource parent within seven-business days of the change or illness, and documents the information. An assessment is completed and conducted in the home regarding the parent's ability to continue providing care for a child in OKDHS custody.

(4) The resource specialist emails a vendor update with a copy of the Social Security card to \*STO.Finance.VUR for name changes.

(5) The resource specialist updates address changes in KIDS. A vendor update is not sent for an address change. Address changes made in KIDS automatically update in OKDHS Financial Services.

(6) When a resource parent dies, the resource specialist consults the surviving HOH, when applicable, to determine his or her interest in continuing ~~fostering~~ foster.

(A) When the surviving HOH wants to continue as a resource parent, a new contract is signed and a new contract number is issued.

(B) When the surviving HOH does not want to continue as a resource parent, he or she may continue to access the debit card or direct deposit funds until reimbursement ceases.

(C) When there is no surviving HOH, the resource specialist obtains the:

(i) estate name;

(ii) documentation showing the estate's personal representative; and

(iii) address where the monies are mailed.

(D) The resource specialist provides needed information to the Resource Unit for submission to Child Welfare Services Finance and Business Operations.

## **SUBCHAPTER 11. CHILD WELFARE COMMUNITY-BASED RESIDENTIAL CARE**

### **PART 17. CONTRACTED COMMUNITY-BASED RESIDENTIAL CARE PROVIDERS**

#### **340:75-11-230. Purpose, legal basis, and definitions**

Revised ~~9-15-24~~2-1-22

##### **(a) Purpose**

(1) The community-based residential care (CBRC) program serves children in Oklahoma Human Services (OKDHS) custody or tribal custody whose treatment needs cannot be met in a family setting, but whose treatment needs do not require inpatient psychiatric care.

(2) OKDHS contracts for different levels of CBRC placements that vary according to the intensity and individualized treatment needs of children.

##### **(b) Legal basis.**

(1) Section 1-7-103 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-103) requires OKDHS review and assess each child in OKDHS custody to determine the

type of placement consistent with the child's treatment needs in the nearest geographic proximity as possible to the child's home.

(2) 10A O.S. § 1-9-110 requires OKDHS, to the extent of funds available, directly, or by grant or contract, to implement a diversity of CBRC for children who are alleged or adjudicated deprived. When a child is placed with a non-custodial parent, the non-custodial parent's home is construed to be the child's home community. CBRC is care in a:

(A) qualified residential treatment program;

~~(A)~~(B) group home;

~~(B)~~(C) community residential center; or

~~(C)~~(D) similar non-secure facility consistent with the child's individualized treatment needs and provided, whenever practical, in or near the child's home community.

(c) **Definitions.** The following words and terms, when used in this Subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) **"Age-appropriate" or "developmentally-appropriate"** means:

(A) activities or items that are generally accepted as suitable for children of the same age or level of maturity, or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(B) in the case of a specific child, activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child, per 10A O.S. § 1-1-105.

(2) **"Behavioral health"** means mental health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses, and the continuum of mental health, substance use or abuse, or co-occurring mental health and substance use or abuse treatment.

(3) **"Community-based services" or "community-based programs"** mean services or programs, which maintain community participation or supervision in their planning, operation, and evaluation. Community-based services and programs may include, but are not limited to, emergency shelter, crisis intervention, group work, case supervision, job placement, recruitment and training of volunteers, consultation, medical, educational, home-based services, vocational, social, preventive and psychological guidance, training, counseling, early intervention and diversionary substance use or abuse treatment, sexual abuse treatment, transitional living, successful adulthood, and other related services and programs.

(4) **"Corrective action plan (CAP)"** means steps, actions, or strategies taken to correct or address behaviors or conditions associated with abuse, neglect, or areas of concern related to an individual employee of a facility.

(5) **"Facility"** means a place, an institution, a building or part thereof, a set of buildings, or an area whether or not enclosing a building or set of buildings, used for the lawful custody and treatment of children.

(6) **"Facility action step (FAS)"** means all actions, steps, or strategies to correct or address areas of concern identified within a facility including, but not limited to, the culture of care, services, or contract compliance.

(7) **"Facility services plan (FSP)"** means a yearly, progressive document specific to each facility identifying issues impacting child safety within the facility's culture of care including, but not limited to, hiring, training, supervision, services, or contract compliance. The FSP includes all CAPs, FASs, notices to comply, and written plans of compliances related to the specific facility.

(8) **"Family-style living program"** means a residential program providing sustained care and supervision to residents in a home-like environment not located in a building used for commercial activity, per 10A O.S. § 1-1-105

(9) **"Group home"** means a residential facility licensed by OKDHS to provide full-time care and community-based services for more than five but fewer than 13 children.

(10) **"Intensive treatment services"** means a contracted nine-bed program that provides seven-calendar day crisis intervention services for children in OKDHS custody.

(11) **"Mental health"** means behavioral health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses, and the continuum of mental health, substance use or abuse, or co-occurring mental health and substance use or abuse treatment.

(12) **"Missing from Care"** means the child in OKDHS custody or tribal custody is not present in a placement and does not have permission to be absent.

(13) **"Normalcy"** means the child's emotional developmental growth is encouraged by allowing the child to participate in age-appropriate and developmentally-appropriate extracurricular, enrichment, cultural, and social activities, using a reasonable and prudent parent standard.

(14) **"Notice to comply"** means a formal written notice sent to a facility to indicate a CAP or FAS was not completed within agreed upon timeframes.

(15) **"Plan for immediate safety"** means actions taken to immediately control any significant and clearly observable condition that is present and is endangering or threatening to endanger a child in a residential facility.

(16) **"Qualified residential treatment program"** means a program that, per 10A O.S. § 1-1-105:

(A) has a trauma-informed treatment model designed to address the needs, including clinical needs, as appropriate, of children with serious emotional or behavioral disorders or disturbances. ~~And, with respect to a child, The program~~ is able to implement the child's identified treatment from a required assessment;

(B) has registered or licensed nursing staff and other licensed clinical staff who:

(i) provide care within the scope of their practice as defined by Oklahoma laws;

(ii) are on-site according to the treatment model referred to in ~~subparagraph (A)~~ of this paragraph; and

(iii) are available 24 hours a day, seven days a week;

(C) facilitates participation of family members in the child's treatment program, to the extent appropriate, and in accordance with the child's best interest;

(D) facilitates outreach to the child's family members including siblings; documents how the outreach is made including contact information; and maintains contact information for any of the child's known biological family;

(E) documents how family members are integrated into the child's treatment process, including post-discharge, and how sibling connections are maintained;

(F) provides discharge planning and family-based aftercare support for at least six months post-discharge; and

(G) is licensed and accredited by any of the following independent, not-for-profit organizations:

(i) the Commission on Accreditation of Rehabilitation Facilities (CARF);

(ii) the Joint Commission on Accreditation of Healthcare Organizations (JCAHO);

(iii) the Council on Accreditation (COA); or

(iv) any other federally-approved, independent, not-for-profit accrediting organization.

(17) **"Reasonable and prudent parent standard"** means the standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth. This standard is used by the child's caregiver when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities, per 10A O.S. § 1-1-105.

(A) For purposes of this definition, the term "caregiver" means a foster parent with whom a child in foster care is placed, a representative of a group home where a child is placed, or a designated official for a residential child care facility where a child in foster care is placed.

(B) Each CBRC provider must ensure that at least one employee is designated and authorized to apply the reasonable and prudent parent standard to decisions involving the participation of a child in age-appropriate or developmentally-appropriate activities. The authorized CBRC employee is provided with training on how to use and apply the reasonable and prudent parent standard.

(18) **"Residential child care facility"** means a 24-hour residential facility where children live together with or are supervised by adults who are not their parents or relatives, per 10A O.S. § 1-1-105.

(19) **"Serious emotional disturbance"** means a disability persisting for six months or longer as defined by the most-recently published version of the Diagnostic and Statistical Manual of Mental Disorders or International Classification of Disease whereby the child exhibits psychotic symptoms of a serious mental illness or difficulties that interfere or limit social, behavioral, cognitive, communicative, or adaptive skills.

(20) **"Sexual exploitation"** means, per 10A O.S. § 1-1-105, any person 18 years of age and older, or a person responsible for the health, safety, or welfare of a child:

(A) allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law, ~~by any person 18 years of age and older or by a person responsible for the health, safety, or welfare of a child;~~ or

(B) allowing, permitting, encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of a child in those acts ~~by a person responsible for the health, safety, and welfare of the child.~~

(21) **"Written plan of compliance"** means the formal accountability process for facilities and when not adhered to within 30-calendar days results in adverse contract actions.

**PART 29. CONTRACTED LEVEL C PLACEMENTS QUALIFIED RESIDENTIAL  
TREATMENT PROGRAMS (QRTP)**

**340:75-11-330. Contracted Level C placements qualified residential treatment programs (QRTP) and children served**

Revised ~~9-15-16~~2-1-22

(a) Contracted Level C placements QRTP are equivalent to foster home care for children requiring a home-like environment ~~with a full-time house parent or parents.~~

(b) Contracted Level C services include:

- (1) structured group treatment, a minimum of one hour per week for each child;
- (2) individual treatment for each child, as needed;
- (3) family visitation, ~~when the case plan is reunification time;~~
- (4) family treatment, when deemed appropriate by the contractor and the assigned child welfare (CW) specialist;
- (5) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on the restoration of skills for:
  - (A) personal health and hygiene;
  - (B) maintenance of the living environment, including food preparation;
  - (C) money management;
  - (D) job skills readiness, acquisition, and retention;
  - (E) community awareness and mobility, including the use of community resources;and
- (F) socialization skills and techniques, including communication;
- (6) developing and implementing policy and procedures ~~for delivery of successful~~ to successfully deliver adulthood skills training to youth, using an approved teaching curriculum;
- (7) assisting in the provision of federally mandated services that include coordinating with the assigned CW specialist to ensure:
  - (A) the life skills assessment is completed with each youth 14 years of age ~~or~~ and older and implementing the successful adulthood plan produced by this assessment; and ■ 1
  - (B) each youth 14 years of age ~~or~~ and older attends one successful adulthood community contractor seminar each year; ■ 1
- (8) ensuring the youth applies for Medicaid upon his or her 18th birthday, when the youth remains in placement in voluntary care to complete his or her secondary education per Oklahoma Administrative Code (OAC) 340:75-6-110;
- (9) substance use or abuse or chemical dependency therapy within a group or individual counseling or therapy sessions for each child, as needed;
- (10) behavior redirection 24-hours a day, seven days a week to meet the goals and objectives of the treatment plan and respond to any behavioral crisis of the child. The contractor ensures staff are available to respond in a crisis to stabilize the child's behavior and prevent placement disruption; and
- (11) 24-hour, on-call and on-site crisis intervention and behavior management services to each child, as needed. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by

providing intervention resolution and stabilizing functions through triage screening, planning, and documentation.

(c) Contracted Level C placements QRTP are provided in a setting licensed as a ~~child-placing agency~~ or residential child care facility not located in a hospital, either medical or psychiatric, or psychiatric residential treatment center.

(d) The Level C contractor:

(1) provides clothing after a child's initial placement ~~of a child~~. Emergency clothing authorizations may be accessed per OAC 340:75-13-45; ■ 2

(2) maintains documentation of each child's unapproved absence from the program and leave days defined in the contract and reports leave days on Form 04CB002E, CWS Claim for Purchase of Residential Care;

(3) is paid by ~~the Oklahoma Department of~~ Human Services at a fixed daily rate. The fixed daily rate is a blend of Title IV-E per eligibility of each child served and state funds; and

(4) submits Form 04CB002E for payment to the Child Welfare Services (CWS) Contracting and Acquisition Unit.

(e) Children served in Level C placements QRTP.

(1) The primary goal of services is the remediation of mild to moderate behavioral health conditions through a focus on daily living issues rather than clinical interventions.

(2) Level C contractors provide services to children, 13 to 18 years of age, whose behavioral health conditions, such as impulse control disorders, result in actions that may include, but are not limited to:

(A) minor criminal offenses;

(B) difficulty in school;

(C) verbal aggression;

(D) issues with peer interaction;

(E) defiance with authority figures;

(F) infrequent runaway behavior; or

(G) a few unsuccessful placements in a family setting. ■ 32

(3) The Level C contractor receives referrals of children for placement from the CWS Specialized Placements and Partnerships Unit. ■ 1

## **INSTRUCTIONS TO STAFF 340:75-11-330**

**Revised ~~9-15-16~~ 1-22**

1. (a) **Successful adulthood services.** The assigned child welfare (CW) specialist:  
(1) ensures the youth's basic life skills assessment is completed; and  
(2) arranges for the youth to attend seminars, per Oklahoma Administrative Code 340:75-6-110.

2. **Clothing.** ~~The assigned CW specialist provides emergency clothing authorizations.~~

3. **Level C placements.** These resources are listed in the KIDS Resource Directory, category –Residential - State Office Authorized and type - Level C

## **PART 33. CONTRACTED LEVEL D PLUS AND LEVEL E PLACEMENTS QUALIFIED RESIDENTIAL TREATMENT PROGRAMS (QRTP)**

**340:75-11-360. Contracted Level D plus (+) and ~~Level E~~ Placements qualified residential treatment programs (QRTP)**

Revised ~~9-15-212-1-22~~

(a) Contracted Level D+ and ~~Level E~~ services include:

- (1) structured group therapy, a minimum of two hours per week for each child;
- (2) individual therapy, a minimum of one hour per week for each child;
- (3) family visitation, ~~when the case plan is reunification time~~;
- (4) family therapy, ~~when deemed appropriate by the assigned child welfare (CW) specialist~~;
- (5) substance use, ~~or~~ abuse, or chemical dependency therapy within a group or individual counseling or therapy session for each child, as needed;
- (6) psychological or psychiatric intervention for each child through direct contact with a psychologist or psychiatric consultant or the contractor's designated therapy counseling staff;
- (7) behavior redirection 24-hours a day, seven days a week to ensure safety, meet the goals and objectives of the treatment plan, and respond to any behavioral crisis of the child. The contractor ensures that staff is available to respond in a crisis to stabilize the child's behavior and prevent placement disruption;
- (8) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on the restoration of skills for:
  - (A) personal health and hygiene;
  - (B) maintenance of the living environment, including food preparation;
  - (C) money management;
  - (D) job skills readiness, acquisition, and retention;
  - (E) community awareness and mobility, including the use of community resources; and
  - (F) socialization skills and techniques, including communication;
- (9) developing and implementing policy and procedures ~~for delivery of successful to successfully deliver~~ adulthood skills training to youth, using an approved curriculum for teaching successful adulthood skills;
- (10) assisting in the provision of federally mandated successful adulthood services that include coordinating with the assigned child welfare (CW) specialist to ensure:
  - (A) the life skills assessment is completed with each youth 14 years of age and older, and implementing the successful adulthood plan produced by this assessment; and ■ 1
  - (B) each youth 14 years of age and older attends one community contractor successful adulthood seminar each year; ■ 1
- (11) ~~ensuring the youth applies for Medicaid (SoonerCare) upon his or her 18th birthday, when the youth remains in placement in voluntary care to complete his or her secondary education, per Oklahoma Administrative Code (OAC) 340:75-6-110;~~
- ~~(12)~~ providing 24-hour awake supervision of each child;
- ~~(13)~~(12) providing 24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional

dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation;

~~(14) providing a nine-month, on-site educational program for each child in a Level D+ placement, as needed;~~

~~(15)(13) providing recreation services for each child in a Level E placement; and~~

~~(16) providing a 12-month, on-site educational program for each child in a Level E placement, as needed.~~

(17)(14) providing schooling according to the school district where each child is located, and as agreed upon by the child's educational team. The child's educational team is comprised of the local education agency, contractor, CW specialist, and education surrogate;

(15) operating with a trauma-informed treatment model;

(16) providing transition services throughout the child's placement episode; and

(17) providing post-discharge support to each child and his or her family.

(b) Contracted Level D+ and Level E placements QRTP are accredited by a federally-approved, independent, not-for-profit accrediting organization and are provided in a setting licensed as a child-placing agency or residential child care facility that is not located in a hospital, either medical or psychiatric, or psychiatric residential treatment center.

(c) The contractor:

(1) complies with Part 105 of Oklahoma Administrative Code (OAC) 317:30-5 for residential behavior management services in group settings and ~~non-secure diagnostic and evaluation centers;~~

(2) provides clothing, after the child's initial placement ~~of a child~~. Emergency funds for clothing may be accessed, per OAC 340:75-13-45;

(3) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response, The contractor submits the original incident report to the Child Welfare Services (CWS) Specialized Placements and Partnerships Unit (SPPU) ~~and~~, a copy to the assigned CW specialist, and CW facility liaison, and files a copy in the child's case record;

(4) meets the staffing guidelines defined in the Oklahoma ~~Department of~~ Human Services (OKDHS) contract;

(5) complies with a child's rights, per OAC 340:75-11-237;

(6) complies with all general requirements, per OAC 340:75-11-240;

(7) maintains documentation of each child's unapproved absence from the facility and leave days defined in the contract and reports leave days on Form 04CB002E, CWS Claim for Purchase of Residential Care;

(8) establishes a procedure to address and document a response to concerns in Level D+ ~~and Level E placements QRTP~~ that do not warrant a referral for an abuse or neglect assessment or investigation. When documented efforts to address these issues do not remove the concerns, OKDHS has the right to impose adverse contract actions or decline use of the facility. Examples of this type of concern include, but are not limited to:

(A) an employee's judgment or supervision;

(B) disciplinary practices;

(C) non-compliance with policy or contract;

(D) unacceptable housing standards;

(E) inadequate clothing provisions for the child; or

(F) a lack of involvement in the child's education or independent living skills. When documented efforts to address these issues do not remove the concerns, OKDHS has the right to impose adverse contract actions or decline use of the facility;

(9) is paid by OKDHS at a fixed daily rate for the total number of beds specified in the OKDHS contract. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and

(10) submits Form 04CB002E for payment to CWS Contracting and Acquisition Unit.

(d) Children served in Level D+ and Level E placements QRTP.

(1) The primary goal of Level D+ and Level E services is the remediation of emotional or behavioral disorders or behavioral problems through clinical interventions.

(2) Level D+ placements QRTP are less restrictive treatment intensive placements than Level E placements QRTP or psychiatric inpatient care and are available for children with severe emotional or behavioral disorders.

(3) Children served in Level D+ placements QRTP exhibit a wide range of severe emotional and behavioral disorders as described in, per OAC 317:30-5-240.1, but are less physically or sexually aggressive than children served in Level E placements QRTP.

(A) Children served in D+ QRTP typically have a history of trauma that results in characteristics including, but not limited to:

(i) risk of leaving placements without approval;

(ii) difficulty attending public school settings;

(iii) acts of aggression toward peers, property, and authority figures;

(iv) sexual behaviors, including sexual aggression;

(v) substance use, abuse, or related needs;

(vi) severe delays in development;

(vii) verbal aggression;

(viii) difficulty with peer or adult relationships;

(ix) history of disruptions in attachment;

(x) difficulties in emotional functioning and regulation;

(xi) multiple placement changes;

(xii) dual adjudication with the Office of Juvenile Affairs or a history of criminal activities;

(xiii) inability to experience joy, happiness, and meaningful play or recreate recreation; and

(xiv) damage to trust, impaired relationships, and difficulty forming relationships and attachments to people.

(4) Level E placements are the most restrictive treatment intensive placements available for children outside of a psychiatric facility.

(5) In general, children served are 13 to 18 years of age in Level D+ and Level E placements QRTP. Each contractor serves a specifically defined target population of children. ■ 2

(6)(5) The contractor receives referrals for the placement of children from CWS SPPU through the CW facility liaison. ■ 1 through 2

- ~~(e) Children served in Level E placements designated for victims of sexual exploitation.~~
- ~~(1) The primary goal of a Level E facility designated for victims of sexual exploitation is to address the unique needs of survivors and assist victims in gaining an understanding of the victimization process, empower survivors, and prepare children for reintegration into a family or a successful adulthood living environment.~~
- ~~(2) Services provided in designated Level E facilities for victims of sexual exploitation include a protected environment, specified cognitive behavioral therapy, individualized therapeutic services, and positive behavioral supports.~~
- ~~(3) Per Section 1-9-123 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-123), OKDHS immediately reports to law enforcement, and in no case later than 24 hours, after receiving information on a child or youth who was identified as a sex trafficking victim, per 10A O.S. § 1-1-105.~~

## **INSTRUCTIONS TO STAFF 340:75-11-360**

**Revised ~~9-15-212-1-22~~**

- 1. Successful adulthood services. The assigned child welfare specialist:**
  - (1) ensures that the youth's basic life skills assessment is completed; and**
  - (2) arranges for the youth to attend seminars, per Part 13 of Oklahoma Administrative Code 340:75-6-110.**
- 2. Level D+ and E placements qualified residential treatment programs. Level D+ and Level E contractors are listed in KIDS Resource Directory, category - Residential - State Office Authorized and type - Level D+ and Level E.**

### **340:75-11-364. Contracted Level E qualified residential treatment programs (QRTP)**

**Issued 2-1-22**

**(a) Contracted Level E services include:**

- (1) structured group therapy, a minimum of two hours per week for each child;
- (2) individual therapy, a minimum of one hour per week for each child;
- (3) family time;
- (4) family therapy;
- (5) substance use, abuse, or chemical dependency therapy within a group or individual counseling or therapy session for each child, as needed;
- (6) psychological or psychiatric intervention for each child through direct contact with a psychologist or psychiatric consultant or the contractor's designated therapy counseling staff;
- (7) behavior redirection 24-hours a day, seven days a week to ensure safety, meet the treatment plan's goals and objectives, and respond to any behavioral crisis of the child. The contractor ensures that staff is available to respond in a crisis to stabilize the child's behavior and prevent placement disruption;
- (8) active teaching and redevelopment of the child's basic living and social skills, both on-site and in the community. At minimum, the focus is on the restoration of skills for:
  - (A) personal health and hygiene;
  - (B) maintenance of the living environment, including food preparation;
  - (C) money management;
  - (D) job skills readiness, acquisition, and retention;

- (E) community awareness and mobility, including the use of community resources; and
- (F) socialization skills and techniques, including communication;
- (9) developing and implementing policy and procedures to successfully deliver adulthood skills training to youth, using an approved curriculum for teaching successful adulthood skills;
- (10) assisting in the provision of federally mandated successful adulthood services that include coordinating with the assigned child welfare (CW) specialist to ensure:
  - (A) the life skills assessment is completed with each youth 14 years of age and older and implementing the successful adulthood plan produced by this assessment; and ■ 1
  - (B) each youth 14 years of age and older attends one community contractor successful adulthood seminar each year; ■ 1
- (11) providing 24-hour awake supervision of each child;
- (12) providing 24-hour on-call and on-site crisis intervention and behavior management services to each child, as needed. Emergency or crisis intervention services include face-to-face encounters with the child to resolve acute emotional dysfunction by providing intervention resolution and stabilizing functions through triage screening, planning, and documentation;
- (13) providing recreation services with a recreation coordinator for each child;
- (14) providing schooling according to the school district where the child is located and as agreed upon by the child's educational team. The child's educational team is comprised of the local education agency, contractor, CW specialist and education surrogate;
- (15) operating with a trauma-informed treatment model;
- (16) providing transition services throughout the child's placement episode; and
- (17) providing post discharge support to each child and their family.
- (b) Contracted Level E QRTP are accredited by a federally-approved, independent, not-for-profit accrediting organization and are provided in a setting licensed as a residential child care facility that is not located in a hospital, either medical or psychiatric, or psychiatric residential treatment center.
- (c) The contractor:
  - (1) complies with Part 105 of Oklahoma Administrative Code (OAC) 317:30-5 for residential behavior management services in group settings;
  - (2) provides clothing, after the child's initial placement. Emergency funds for clothing may be accessed, per OAC 340:75-13-45;
  - (3) completes a written incident report describing any extreme behavioral incident or major rule violation, including the contractor's response. The contractor submits the original incident report to the Child Welfare Services (CWS) Specialized Placements and Partnerships Unit (SPPU), submits a copy to the assigned CW specialist and CW facility liaison, and files a copy in the child's case record;
  - (4) meets the staffing guidelines defined in the Oklahoma Human Services (OKDHS) contract;
  - (5) complies with a child's rights, per OAC 340:75-11-237;
  - (6) complies with all general requirements, per OAC 340:75-11-240;

(7) maintains documentation of each child's unapproved absence from the facility and leave days defined in the contract and reports leave days on Form 04CB002E, CWS Claim for Purchase of Residential Care;

(8) establishes a procedure to address and document a response to concerns in Level E QRTP that do not warrant a referral for an abuse or neglect assessment or investigation. When documented efforts to address these issues do not remove the concerns, OKDHS has the right to impose adverse contract actions or decline use of the facility. Examples of this type of concern include, but are not limited to:

(A) an employee's judgment or supervision;

(B) disciplinary practices;

(C) non-compliance with policy or contract;

(D) unacceptable housing standards;

(E) inadequate clothing provisions for the child; or

(F) a lack of involvement in the child's education or independent living skills;

(9) is paid by OKDHS at a fixed daily rate for the total number of beds specified in the OKDHS contract. The fixed daily rate is a blend of Title IV-E and Title XIX federal funds, per eligibility of each child served, and state funds; and

(10) submits Form 04CB002E for payment to CWS Contracting and Acquisition Unit.

(d) Children served in Level E QRTP.

(1) The primary goal of Level E services is the remediation of emotional or behavioral disorders or behavioral problems through clinical interventions.

(2) Children served in Level E QRTP exhibit a wide range of severe emotional and behavioral disorders as described in OAC 317:30-5-240.1.

(A) Children served typically have a history of trauma that results in some of, but not limited to, the following characteristics:

(i) high risk of leaving placements without approval;

(ii) difficulty attending public school settings;

(iii) acts of violence and aggression toward peers, property, and authority figures;

(iv) sexual behaviors, including sexual aggression and sexually predatory behavior;

(v) substance use or related needs;

(vi) severe delays in development;

(vii) verbal aggression;

(viii) difficulty with peer or adult relationships;

(ix) history of disruptions in attachment;

(x) difficulties in emotional functioning and regulation;

(xi) multiple placement changes;

(xii) dual adjudication with the Office of Juvenile Affairs or a history of criminal activities;

(xiii) inability to experience joy, happiness, and meaningful play or recreate; and

(xiv) damage to trust, impaired relationships, and difficulty forming relationships and attachments to people.

(4) Level E placements are the most restrictive treatment intensive placements available for children outside of a psychiatric facility.

(5) In general, children served in Level E QRTP are 13 to 18 years of age. Each contractor serves a specifically defined target population of children. ■ 2

(6) The contractor receives referrals for the placement of children from CWS SPPU through the CW facility liaison. ■ 1 through 2

(e) Children served in Level E QRTP designated for victims of sexual exploitation.

(1) The primary goal of a Level E QRTP designated for victims of sexual exploitation is to address the unique needs of survivors, assist victims in gaining an understanding of the victimization process, empower survivors, and prepare children for reintegration into a family or a successful adulthood living environment.

(2) Services provided in designated Level E QRTP for victims of sexual exploitation include a protected environment, specified cognitive behavioral therapy, individualized therapeutic services, and positive behavioral supports.

(3) Per Section 1-9-123 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-123), OKDHS immediately reports to law enforcement no later than 24 hours after receiving information on a child or youth who was identified as a sex trafficking victim, per 10A O.S. § 1-1-105.

(f) Level E QRTP with enhanced support, known as Level E Enhanced, serve the individualized treatment and supervision needs of children who meet Level E criteria and who can benefit from an enhanced supervision ratio and special programming. Level E Enhanced services include all services listed in subsection (a) of this Section, with the addition of a higher level of staffing ratio than the traditional Level E, to meet the unique needs of the children served.

(g) Level E QRTP with increased psychiatric supports, known as Level E plus (+), serve the individualized needs of children who meet traditional level E criteria and who can benefit from additional psychiatric services.

(1) Level E+ has five major goals for children:

(i) reducing inpatient psychiatric hospitalizations;

(ii) stabilizing children who are experiencing significant mental health issues;

(iii) teaching children new skills to meet their needs;

(iv) preparing and planning for the child to live in a less restrictive environment, such as a family-like setting; and

(v) providing child safety through 24-hour awake intensive supervision.

(2) Level E+ services include all services listed in subsection (a) of this Section with the addition of:

(i) weekly psychiatric treatment;

(ii) completion of a psychological evaluation within five-business days of a child's placement; and

(iii) treatment plan updates every 30-calendar days.

## **INSTRUCTIONS TO STAFF 340:75-11-364**

**Issued 2-1-22**

**1. Successful adulthood services. The assigned child welfare specialist:**

**(1) ensures that the youth's basic life skills assessment is completed; and**

**(2) arranges for the youth to attend seminars, per Oklahoma Administrative Code 340:75-6-110.**

**2. Level E contractors are listed in KIDS Resource Directory, category - Residential - State Office Authorized and type - Level E.**