

R501. Health and Human Services, Administration, Administrative Services, Licensing.

R501-7. Child Placing Adoption Agencies.

R501-7-1. Authority and Purpose.

- (1) This rule is authorized under Section 62A-2-106.
- (2) This rule establishes standards for licensing agencies to provide child placing adoption services.

R501-7-2. Definitions.

- (1) "Adoption" is defined in Section 78B-6-103.
- (2) "Adoptive Parent" also means potential adoptive parent(s).
- (3) "Child Placing" is defined in 62A-2-101.
- (4) "Child Placing Adoption Agency" means an individual, agency, firm, corporation, association, or group children's home that engages in child placing for the purpose of finding a person to adopt a child or placing a child in a home for adoption.
- (5) "Adoption Related Expenses" are defined in 76-7-203.
- (6) "Adoption Services" is defined in 62A-4a-101(2).
- (7) "Adoption Related Counseling" includes clinical counseling and psycho educational counseling that is specific to adoption and includes the counseling provided to pre-existing parent(s) as required by circumstances and 78B-6-119.
- (8) "Agency" means a child placing adoption agency.
- (9) "Allowable Adoptive Parent Information" is the information shared with birth parents regarding the adoptive parent(s). It may include non-identifying information as follows:
 - (a) demographics, such as age, nationality, religious affiliation;
 - (b) health status;
 - (c) physical characteristics;
 - (d) educational achievement and profession;
 - (e) family characteristics, including marital history and length, sexual orientation, and any other children;
 - (f) support system;
 - (g) discipline preferences;
 - (h) reason for adopting;
 - (i) non-identifying information transparently disclosed by the Agency in advance; and
 - (j) any other identifying or non-identifying information agreed upon via a signed release of information by the adoptive parent.
- (10) "Allowable Child/Pre-existing Parent Information" is the information shared with adoptive parent(s). It includes:
 - (a) Genetic and Social History as defined in 78B-6-103 and used as described in 78B-6-143 which shall include all items defined in 76B-6-103 inclusive of:
 - (i) birth family's medical, genetic, social, and mental health history;
 - (ii) information pertaining to changes in caregivers; and
 - (iii) a description of the child's race, cultural and ethnic background.
 - (b) Health History as defined 78B-6-103 and used as described in 78B-6-143 which shall include all items defined in 78B-6-103 inclusive of:
 - (i) Pre-natal, labor and delivery records for mother and infant;
 - (ii) medical records including the child's physical health, immunizations, and any known or potentially significant factors that may interfere with normal development or may signal any potential medical problems; and
 - (iii) non-identifying information transparently disclosed by the Agency in advance.
 - (c) Any other identifying or non-identifying information agreed upon via a signed release of information by the birth parent.
- (11) "Client" a client of a child placing adoption agency is a pre-existing parent(s), adoptive parent(s) who have consented to, or been ordered by the court to receive adoption services and child(ren) placed or to be placed. For purposes of background screening in accordance with 62A-2-101 only, the adoptive parent(s) are also defined as "Associated with the Licensee".
- (12) "Confinement" means the time period when a woman is hospitalized or medically restricted by her physician due to her pregnancy and childbirth. Confinement includes the standard 6 week recovery time from uncomplicated childbirth unless otherwise noted by the woman's physician.
- (13) "Directly Affected Person" is defined in 76-7-203.
- (14) "Disruption" means the termination of an adoptive placement prior to the issuance of a final decree of adoption.
- (15) "Foster Care" means family care in the residence of a foster parent who is licensed or certified pursuant to R501-12.
- (16) "Genetic and Social History" is defined in Section 78B-6-103.
- (17) "Health History" is defined in Section 78B-6-103.
- (18) "High Needs Child" is as defined in 62A-4a-601.
- (19) "Home Study" is equivalent to a pre-placement adoptive evaluation as outlined in 78B-6-128 and is the written assessment of an applicant's ability to be considered for adoptive placement.
- (20) "Infant" for purposes of adoption means a child up to six months in age at placement.

(21) "Intercountry Adoption" is when an individual or couple becomes the legal and permanent parents of a child who is a habitual resident of another country and is governed by the laws of both countries.

(22) "Legal Risk Placement" means at the time the placement is made, one or more of the child's biological parents or putative legal parents has not executed a legal relinquishment or consent to the adoption, their parental rights have not been lawfully terminated, or they have expressed their intention to exercise parental rights or contest the adoption.

(23) "Match" means the identification of a specific potential adoptive child with a specific potential adoptive family.

(24) "Mental Health Therapist" is defined in Section 58-60-102.

(25) "Office" means the DHS Office of Licensing.

(26) "Pre-existing Parent" is defined in 78B-6-103.

(27) "Recovery" means the standard 6 weeks of time it takes for women to fully recover from normal childbirth.

Agencies are responsible for maintaining accurate documentation of each woman's recovery time frame.

(28) "Special Needs Child" means there is known evidence that:

(a) the child is 5 years of age or older;

(b) the child is under the age of 18 with a physical, emotional or mental disability; or

(c) the child is a member of a sibling group placed together for adoption.

(29) "Unmarried Biological Father" is defined in Section 78B-6-103(17).

R501-7-3. Legal Requirements.

(1) In addition to this rule, all child placing adoption agencies shall comply with R495-876, R501-11, R501-2-1 through R501-2-5, R501-2-8 through R501-2-14, R501-14; R501-22, Title 58, Chapter 60; Title 62A, Chapters 2 and 4a; Section 76-7-203; 78A-6; 78B-6; 78B-13; 78B-15; and all other applicable local, State and Federal laws.

(2) Child placing adoption agencies that do not arrange housing for birth mothers are exempt from R501-2-5, 10, 11, 12, and 22.

(3) A child placing adoption agency shall:

(a) be legally responsible for the child following relinquishment of the child to the adoption agency until the adoption is finalized, unless a court of competent jurisdiction or applicable law places legal responsibility with another party, in accordance with Section 78B-6-134;

(b) comply with the Indian Child Welfare Act;

(c) obtain a child placing foster license and comply with R501-12 if providing foster care;

(d) obtain a residential support license and comply with R501-22 if providing residential support services to pre-existing parent(s);

(e) comply with the Interstate Compact on the Placement of Children, in accordance with Section 62A-4a-701 et seq; and

(f) ensure that its employees, contractors, volunteers and agents comply with all laws relating to adoption services.

(4) The Division of Child and Family Services shall additionally comply with R512-40 for recruitment, home study and approval; R512-41 for qualifying and adoptive family and adoptive placement; R512-302 for responsibilities pertaining to out of home caregivers and any other section of 62A-4a and R512 that governs the provision of adoptive services to child welfare clients served by the Division of Child and Family Services.

(a) The aforementioned child welfare statute and rule shall supersede this rule when in conflict for child welfare clients served by the Division of Child and Family Services.

R501-7-4. Administrative Ethics and Responsibilities.

(1) Child placing adoption agencies shall:

(a) identify and strictly adhere to accurate accounting practices, including all fee requirements of this rule;

(b) always act in the best interest of a child;

(i) best interest determinations are made by considering a number of factors related to the child's circumstances including age and developmental needs and the parent or caregiver's circumstances and capacity to parent the child to adulthood and shall consider the pre-existing parent(s)' wishes when parental rights are voluntarily relinquished;

(c) provide services and adhere to ethical practices that support and comply with all client rights and responsibilities;

(d) develop and comply with processes that are free from fraud, duress or undue influence and avoid and mitigate conflicts of interest in order to preserve the protections of clients to include:

(i) not give preferential treatment to its board members, employees, volunteers, agents, consultants, independent contractors, donors, or their respective families with regard to child placing decisions;

(ii) not accepting or soliciting donations from an adoptive family that is under consideration for placement of a child or pending finalization of an adoption;

(A) generalized mass solicitation through newsletters or the media shall not constitute a violation under this rule;

(iii) not coercing or incentivizing pre-existing parent(s) to make a plan of adoption or to relinquish their parental rights;

(iv) not permitting its employees, volunteers, agents, consultants, or independent contractors to provide adoption services to both the pre-existing parent(s) and the adoptive parent(s) unless all parties are made aware of potential conflicts of interest and sign a voluntary consent;

(v) inform clients that they are free to select independent attorneys and other non-child placing adoption services;

- (A) client bears the responsibility to select a competent provider and their choice may affect costs incurred;
- (vi) not referring any individual to services in which the agency's board members, volunteers, employees, agents, consultants, independent contractors, or their respective families are engaged, without first disclosing potential conflicts of interest and informing said individuals that they are free to select independent adoption service providers; and
- (vii) require members of the governing body to disclose, in writing, to the chairperson of the governing body and the Office of Licensing, any direct or indirect financial interest in the agency;
- (e) manage and share information while still preserving confidentiality when required. This includes:
 - (i) documenting information shared with potential adoptive parent(s) regarding unknown pre-existing parent(s), Indian Child Welfare Act, and any known information that could potentially disrupt an adoptive placement;
 - (ii) respond to requests for information from clients and former clients within 30 days and document all requests for information or actual sharing of information to/from birth families, adoptees, adoptive families, and others;
 - (iii) provide non-identifying information in client files that can allowably be shared, and shall comply with previous releases and established policies;
 - (iv) the agency shall refer clients to the Mutual-Consent Voluntary Adoption Registry through Department of Health Vital Records if adult adoptees or birth family members want to reunite; and
 - (v) in more urgent circumstances that could have serious implication to any client or prior client, the agency will utilize prior contact and emergency contact information, as well as engage in simple social media and search engine inquiries to locate and communicate with former clients;
 - (vi) agencies may engage in a fee based more extensive service to search if desired;
 - (vii) the agency may share information with third party search providers only if consent has been given by the affected party;
 - (viii) not misrepresent or withhold any facts or allowable adoptive parent(s) or child/pre-existing parent(s) information relating to its services, involved individuals, or the applicable law;
- (f) accept and utilize third party assessments, evaluations, references, home studies or pre-placement evaluations only if received directly from the document's author;
- (g) preserve the confidentiality and content of client files;
- (h) with respect to adoption services an agency shall refer to or utilize only agencies, entities or individuals that are authorized to provide the service by the laws of this state or the jurisdiction in which that agency, entity or individual performs the service;
 - (i) provide at least 30 days' prior written notice to the Office of Licensing that the agency is:
 - (i) dissolving or ceasing to provide child placing services; or
 - (ii) implementing significant changes in adoption services provided, such as adding or eliminating intercountry adoption.
 - (j) Provide copies of all documents signed by clients directly to those clients upon request.
- (2) In addition to policy and procedure requirements outlined in R501-2, agencies shall develop and adhere to the following adoption-related policies and procedures:
 - (a) a process regarding how to transfer a relinquishment to another agency in compliance with 78B-6-124 (7);
 - (b) a process to identify a high needs child as defined in 62A-4a-601, and once identified comply with 62A-4a-609 including disclosure and training to adoptive parent(s);
 - (c) a process for the temporary placement of children awaiting adoptive placement for over 30-days;
 - (d) a process and standards for the evaluation and approval or denial of an adoptive home study or pre-placement evaluation;
 - (e) process and standards for the evaluation and approval or denial of applications from prospective adoptive parent(s);
 - (f) a written plan for contact, file maintenance, and record retrieval in the event that the agency ceases to provide child placement adoption services;
 - (i) this plan may involve a secondary licensed or file retention entity;
 - (g) a process for identifying the pre-existing parent(s)' utilization of alternative payment sources including any public assistance that may defray adoptive parent(s) costs;
 - (h) policy identifying what is allowable child/pre-existing parent(s) information to be shared with potential adoptive parent(s), including the development of releases of information as needed;
 - (i) policy identifying what is allowable adoptive parent(s) information to be shared with pre-existing parent(s) including the development of releases of information as needed;
 - (j) process for refunds to include a process for refunding to adoptive parents monies they paid in excess of actual expenses or disclosed agency fees.; and
 - (k) written policy to be provided to the adoptive parent(s) outlining how the match is determined, its relationship to any fees, and how it is managed by the agency.

R501-7-5. Staffing Requirements.

- (1) A child placing adoption agency shall have at least one social work supervisor responsible for directly supervising all staff and volunteers who provide adoption services to clients.

(2) If an Executive Director is serving as a social work supervisor, they shall not supervise more than four staff and volunteers who provide adoption services to clients.

(3) Each social work supervisor shall be licensed in this state as a mental health therapist, shall comply with the Utah Mental Health Professional Practice Act, and shall have at least one year of full time paid professional experience in a licensed child placing adoption agency.

(4) A social work supervisor may not supervise more than eight staff and volunteers who provide adoption services to clients.

(5) An executive director shall have at least one year of full time paid experience in a licensed child placing adoption agency.

(6) All staff that provide services shall receive a minimum of 20 hours of pre-service training, prior to independently providing direct client services, and 12 hours annual in-service training.

(a) Training content shall include:

(i) agency policy and procedures;

(ii) adoption ethics, laws, and rules;

(iii) the provision of professional and trauma informed adoption practices; and

(iv) any evaluations they will be performing.

(b) Staff will be supervised for adherence to training topics.

R501-7-6. Fees and Disclosures.

(1) All fees, costs and expenses whether actual or estimated must be itemized in accordance with this Rule and Utah Code Ann. 78B-6-140.

(2) A child placing adoption agency may charge adoptive parent(s) agency fees which include administrative and professional services provided on behalf of the adoptive parent(s), including but not limited to:

(a) agency overhead;

(b) personnel;

(c) background screenings for adoptive parent(s) and staff;

(d) training;

(e) insurance;

(f) legal services for the agency;

(g) advertising/recruiting;

(h) post-placement visit;

(i) agency staff support throughout pregnancy, birth, placement and post placement;

(j) home studies, if completed by the agency; and

(k) home study updates, if completed by the agency;

(l) copies of purchased home studies and updates are to be provided to the subjects of these documents upon request.

(3) An agency fee may be charged as a flat fee or be itemized and both must clarify what is included or specifically excluded.

(4) Any fee billed inclusive of an agency fee shall not be billed additionally outside of that agency fee.

(5) An agency may charge and accept payment from the prospective adoptive parent(s) only for reasonable, actual, estimated or outstanding adoption related expenses of the pre-existing parent(s) which are itemized outside of any agency fee. These expenses are limited to the following:

(a) additional counseling;

(b) adoption related legal fees to utilize an independent attorney for the adoption;

(c) maternity expenses limited to pregnancy related clothing, pre-natal vitamins, other non-medical pregnancy related needs;

(d) medical and hospital expenses limited to pregnancy and childbirth related medical expenses for the mother/child; and

(e) temporary living expenses limited to the duration of the pregnancy and confinement of the pre-existing parent(s) or directly affected person and include only:

(i) food;

(ii) transportation including bus passes, gasoline, car maintenance, car payments, and taxi/ride share services;

(iii) housing;

(iv) utilities and telephone;

(v) reasonable and minimal incidentals;

(vi) sufficient apparel for the weather and circumstances;

(vii) daily living household supplies;

(viii) travel between the mother's or father's home and the location where the child will be born or placed;

(f) any other expense not explicitly outlined in this rule shall be reasonably related to the adoption, incurred for a reasonable amount and not paid for the purpose of inducing a birth parent to place the child for adoption. If such fees are charged or paid, the agency shall notify the Office of Licensing.

(6) An agency may charge an adoptive or potential adoptive parent(s) for either the actual adoption related expenses in regard to the pre-existing parent(s) and directly affected individuals or a flat fee estimate of adoption related expenses. Regardless of the fee structure, fees and expenses must be itemized in accordance with this Rule and Utah Code Ann. 78B-6-140.

(a) the agency must disclose whether their adoption related expenses charged are actual or estimated and share the agency policy on refunds or re-appropriation prior to charging adoptive parent(s).

(b) If the agency charges a flat fee for adoption related expenses, the amount must be stated in the disclosure outlined in (7) of this section and the policies related to refunds, increases or decreases in those fees must be outlined in the disclosure.

(c) If the agency charges a fixed amount for adoption related expenses, it must be outlined in the disclosure and capped at that amount. It shall be disclosed whether or not the flat adoption related expenses are or are not refundable in the disclosure.

(d) Over collection of adoption related expenses that are not refunded is only permissible with estimated adoption related expenses if:

(i) any overage will be used to support the adoption related expenses of another adoption of the adoptive parent(s) that paid the expenses originally or refunded to the adoptive parent(s) upon their request;

(ii) any over-collected adoption related expenses shall not be used for the benefit of the agency or anyone associated with the licensee or as a payment to a pre-existing parent.

(7) A child placing adoption agency shall provide a written disclosure statement of all agency fees, flat fees and adoption related expenses that prospective adoptive parent(s) may incur before the agency accepts any payments, or enters into any agreement with the prospective adoptive parent(s).

(a) The written disclosure shall identify and itemize:

(i) each fee and the services associated with each fee; and

(ii) each adoption-related expense.

(b) If providing only estimated expenses provide the average cost for each itemized fee and each adoption-related expense for the preceding two fiscal years, and the maximum amount that may be charged for each fee and adoption related expense.

(c) The written disclosure shall identify any fee that is non-refundable.

(d) If the agency is charging a flat fee, the disclosure shall contain full acknowledgment by prospective adoptive parents of this fee structure and refund ability of any portion of the flat fee.

(e) The written disclosure shall be signed and dated by the prospective adoptive parent(s) and an agency representative and maintained in the adoptive parent(s) file.

(8) An agency shall not charge prospective adoptive parent(s) for any fees or adoption related expenses that the client obtained independently or were paid for by another entity, including any public assistance.

(9) An agency shall not charge adoptive parent(s) for any fee that was not included in the written disclosure without providing written agreement and justification approved by the prospective adoptive parent(s), and either the Office of Licensing or the Court.

(10) An agency shall not directly or indirectly offer, give, or attempt to give money or another thing of value in order to induce or influence pre-existing parent(s) in the adoption process.

(11) The agency shall retain documentation for any adoption related expense exceeding twenty five dollars, which may include receipts, lease agreements, signed fund transfers to pre-existing parent(s) in reasonable amounts in order to cover basic daily needs such as food and household supplies, and any other pertinent documentation.

(12) An agency shall not charge the adoptive parent(s) for the temporary living expenses of any person other than the pre-existing parent(s) or directly affected persons.

(13) An agency shall not charge the adoptive parent(s) for any expenses that are post-confinement, with the exception of post-placement counseling if agreed upon.

(14) A birth mother who decides not to place her child shall not be responsible for reimbursing the costs of any goods or services provided to her by the prospective adoptive parent(s) or the child placing adoption agency during her pregnancy unless they are first convicted of fraud.

(15) Child placing adoption agencies that provide or pay for pre-existing parent(s)' transportation to the State of Utah shall also ensure that the pre-existing parent(s)' return transportation to their home state is provided, regardless of whether the pre-existing parent(s) decides to relinquish parental rights.

(16) The agency shall create an affidavit of itemized accounting of the actual fees and adoption related expenses paid by the adoptive parent(s).

(a) The agency shall utilize an affidavit form provided by the Office of Licensing or a form inclusive of the Office's form content.

(b) The affidavit shall be executed as follows:

(i) a copy shall be signed by the adoptive parent(s);

(ii) all adoption related expenses shall be itemized and include a declaration that Section 76-7-203 has not been violated;

(A) itemized expenses in the affidavit shall align with those verified by pre-existing parents in R501-7-11(3)(n);

(iii) the affidavit shall include a declaration of all gifts, property, or other items that have been or will be provided to the pre-existing parent(s), including the source of the gifts, property or other items;

- (iv) the affidavit shall include a declaration of the state of the residence of the pre-existing parent(s) and the prospective adoptive parent(s);
- (v) the affidavit shall include a declaration of all public funds used for any medical or hospital costs in connection with the pregnancy, delivery of the child, or care of the child; and
- (vi) the affidavit shall include the signature of an agency representative with adequate knowledge to verify the contents of the affidavit are accurate and complete.

R501-7-7. Services to Pre-existing Parents.

(1) The Division of Child and Family services shall comply with 62A-4a and R512 in regards to services provided to pre-existing parent(s), including disclosing all allowable adoptive parent(s) information to the birth family, except as governed by R512-41-11 for the Division of Child and Family Services.

(2) Child placing adoption agencies other than the Division of Child and Family Services shall:

(a) offer pre-existing parent(s) all available allowable adoptive parent(s) information unless waived in full or part by the pre-existing parent(s) as early in the matching process or consent to adopt process as reasonable;

(b) per 78B-6-119, accept voluntary relinquishments only after offering a minimum of three sessions of adoption related counseling to any person who is considering relinquishing a child for adoption prior to accepting the consent or relinquishment. This counseling shall include at a minimum:

- (i) parental rights prior to relinquishments;
- (ii) alternative options for the child and pre-existing parent(s); and
- (iii) adoption issues including grief/loss;
- (c) provide complete and accurate information to the pre-existing parent(s) regarding their decision to consent to adopt or relinquish;
- (d) meet in-person, via video, or via telephone with the pre-existing parent(s) to review the designated adoption orientation form provided by the Office;
- (i) pre-existing parent(s) will be given the opportunity for questions/clarifications before initialing and signing the document;
- (ii) a pre-existing parent(s) under the age of 18 shall meet privately with the adoption worker unless they waive the option to meet privately;
- (e) ensure the written consent to relinquishment includes language acknowledging that the pre-existing parent(s) was afforded adoption related counseling, and that the relinquishment is completely voluntary, permanent and irrevocable under Utah Law once signed;

(i) a child placing adoption agency shall wait at least 24 hours after the birth of a child before taking the birth mother's relinquishment of parental rights or legal consent to the adoption of her child, in accordance with Section 78B-6-125 or the laws of the state governing the relinquishment.

(3) If an agency arranges housing for pre-existing parents, assure that such housing complies with the following minimum standards:

- (a) housing is in compliance with health, fire, zoning, and other applicable laws and regulations;
- (b) if the housing meets the definition of Residential Support (R501-22) the agency shall obtain a Residential Support license through the Office of Licensing;
- (c) housing is clean, well-maintained and adequately furnished;
- (d) birth mothers shall not share bedrooms with other birth mothers;
- (e) laundry equipment and supplies shall be available; and
- (f) adequate nutritious food, or resources to obtain food, is available.

(7) The agency shall be responsible to encourage and facilitate prenatal and medical care of the birth mother.

(8) A child placing agency shall inform pre-existing parent(s) of their information that will be shared with adoptive parent(s) including their detailed health history and a genetic and social history in accordance with Section 78B-6-143.

(9) A child placing adoption agency shall inform pre-existing parent(s) of Utah's Mutual Consent Voluntary Adoption Registry, Section 78B-6-144.

(10) A child placing adoption agency shall assist the birth and adoptive parent(s) in creating a post-placement contact agreement, including:

- (a) whether the birth parent wants to disclose their identity to the adoptee or the adoptive family;
- (b) contact about or from the child or parents, directly or indirectly, in the future and how that will occur;
- (c) that such agreements are non-binding except in certain public child welfare cases; and
- (d) Contact agreements shall be updated only when initiated by the previous clients and maintained in case file records.

R501-7-8. Services to Children.

(1) Assessment.

(a) A needs assessment for the child shall be completed to obtain information and identify characteristics which should be given consideration in selecting and preparing a child for an adoptive family and promote appropriate placement for the child.

(b) The needs of the child will be determined through this assessment and shall evaluate for high needs or special needs as defined in this chapter.

(c) A report(s) regarding all assessment information shall be given to the adoptive parent(s) prior to placement.

(d) If the child is an infant that is not defined as special needs or high need, information shall be obtained from the pre-existing parent(s) and any legal guardian to include all allowable child/pre-existing parent(s) information as defined in this chapter. This information should include:

(i) If the child is older than six months the same information from Section 2 above, shall be obtained from the birth or legal parent;

(ii) additional information shall be obtained using an interdisciplinary approach which may include input from: caseworkers, therapists, pediatricians, teachers, previous caregivers, foster parents, nurses, psychologists, and other consultants.

(e) The assessment shall additionally include:

(i) information pertaining to changes in caregivers including foster care, separation experiences and description of the child's behaviors;

(ii) all evaluations regarding a child's development including; physical, social, emotional, mental health and cognitive;

(iii) the child's educational records, and any special educational needs;

(iv) talents and interests; and

(v) if the child is identified as having special needs or is a high needs child as defined in 62A-4a-601, specific training for prospective adoptive parent(s) is statutorily mandated.

(2) Recruitment of adoptive families.

(a) Child placing adoption agencies shall recruit adoptive families that are able to meet the needs of children the agency serves.

(b) If the family states they would be open to a child with special needs or high needs, they will complete training specific to identified needs and in compliance with 62A-4a-609-2.

(3) Matching.

(a) The selection of the adoptive family and the adoptive family's decision to adopt a specific child shall be based on the following:

(i) the child's assessment;

(ii) adoptive family's ability to meet the identified and potential needs of the child;

(iii) the wishes of the pre-existing parent(s) who voluntarily relinquish their rights, the adoptive parent(s), and when applicable, the child, shall be considered.

(4) Placement.

(a) A child placing adoption agency shall attempt to place siblings together when appropriate for the children's needs and pre-existing parent(s) wishes.

(b) A child shall be placed with the adoptive family at the earliest time possible after being freed for placement or adoption.

(c) A child placing adoption agency shall have an individualized written adoptive placement and transition plan that includes the child's current caregivers, the adoptive parent(s), and the child, to facilitate the child's transition into the adoptive family and ensures the family's ability to meet the child's needs.

(i) The transition plan shall consider and include as applicable:

(A) the child's stated preferences;

(B) the child's identified religion;

(C) identification of services the family and child may need based on assessment information;

(D) statement of who is responsible for identifying services and who is responsible for paying for such services;

(E) time frames for transition that consider and accommodate the identified and potential needs of the child in preparing the child for placement; and

(F) developmentally appropriate counseling with the child to address to mitigate transition related emotional trauma.

(d) If a child placing adoption agency other than DCFS assumes custody of a child and the child is not able to be directly placed in an adoptive placement:

(i) the agency may temporarily place the child in a currently home studied adoptive home for up to 30 days; or

(ii) if the child needs temporary care for more than 30 days, the agency shall contract with a licensed foster care program or obtain a license to provide foster care services for children in its custody, in accordance with R501-12.

(e) A private child placing adoption agency shall obtain a copy of the foster home or facility license prior to placing a child, and shall retain the license in the child's case file.

(f) If a child is not placed within 30 days after relinquishment or after determination of availability for adoption by the court, the agency shall document its efforts to screen the child with other child placing agencies and shall list the child with local, regional, and inter-state adoption exchanges

(5) Post Placement Service.

(a) The child placing agency shall monitor and support each placement until the adoption is final.

(b) An agency social worker shall contact the adoptive family within 2 weeks of the placement to offer support. This does not count towards the pre-finalization visit.

(c) Prior to finalization, a minimum of one in-home supervisory visit with both parents and child present shall be made by an agency social worker:

(i) to assess that the child and family are adjusting and child is receiving necessary care, nurturance, medical care, and services as needed.

(d) The agency shall monitor who has legal and physical responsibility for the child at all times.

(6) Disruption.

(a) If a disruption occurs, a child placing agency shall provide for the care of the child.

(i) The placement shall:

(A) be in a currently home studied adoptive home for no longer than 30 days unless it is the identified subsequent adoptive placement;

(B) be in a licensed or certified foster home governed by Rule R501-12; or

(C) be approved by a judge.

R501-7-9. Services to Adoptive Parents.

(1) The Division of Child and Family services shall comply with 62A-4a and R512 in regards to services provided to adoptive parent(s), including disclosing all allowable child/pre-existing parent(s) information to the prospective adoptive family.

(2) A child placing adoption agency other than the Division of Child and Family Services shall:

(a) provide the adoptive parent(s) orientation form to potential adoptive parent(s) who shall sign and initial the form and shall be offered the opportunity to ask clarifying questions prior to match or payment of any fees in excess of \$500.00;

(i) adoptive parent(s) will be given the opportunity for questions/clarifications before initialing and signing the document;

(b) provide prospective adoptive parent(s) with a written description of their services, fees, policies and procedures;

(c) explain the adoption process and the pre-existing parent(s)' rights, including the status of any putative father, to the prospective adoptive parent(s);

(i) a copy of the Office provided pre-existing parent(s) adoptive orientation form shall be provided to adoptive parent(s) for information purposes with an acknowledgement that they have discussed and received this information;

(d) provide training as outlined in 62A-4a-609 in regards to high needs child, as required;

(e) per 62A-4a-607 the agency shall inform each prospective adoptive parent(s) that the state has children available for adoption and that adoption from the Division of Child and Family Services incurs no agency fees and adoption assistance may be available when adopting children in the custody of the state;

(f) inform adoptive parent(s) that when a child has a disability, the child may be eligible for SSI benefits and/or federal adoption assistance. The Agency shall refer the potential adoptive parent(s) to coordinate with the Division of People with Disabilities for further disability resources and with Division of Child and Family Services to apply for potential federal adoption assistance; and

(g) a child placing adoption agency shall inform prospective adoptive parent(s) of Utah's Mutual Consent Voluntary Adoption Registry, Section 78B-6-144.

(3) A home study completed by an adoption service provider as outlined in 78B-6-128-2(C) for each adoptive family shall include:

(a) a recommendation to the court regarding the suitability of the prospective adoptive parent(s) or placement of a child;

(b) a description of in-person interviews with the prospective adoptive parent(s), prospective adoptive parent(s)', children, and other individuals living in the home;

(c) criminal background and child abuse screening of adoptive applicants and other adults living in the home in accordance with R501-14, and Sections 53-10-108(4) and 78B-6-128;

(i) agencies must separately obtain the child abuse registry report through the Division of Child and Family Services in Utah and any out of state comparable entities in order to show compliance with 78B-6-128;

(d) written descriptions from at least two non-related and one related references regarding the character and suitability of the prospective adoptive parent(s) for parenting an adoptive child;

(e) a medical history and a doctor's report, based upon a doctor's physical examination of each applicant, made within two years prior to the date of the application;

(f) description of inspections of the home, to determine whether sufficient space and facilities exist to meet the needs of the child and whether basic health and safety standards are maintained; and

(g) description of documented income for each adoptive applicant and a written plan for adoptive applicants who work outside the home addressing how they shall provide security and responsible child care to meet individual child needs.

(4) The adoptive applicants shall be informed, in writing, and within ten business days after the decision is made, as to the acceptance or the reasons for the denial of their home study.

(a) The agency shall provide applicants with a written copy of the agency's appeal process, which shall include the right to submit a written appeal and request for reconsideration, upon order of the court in accordance with Section 78B-6-128.

(5) A child placing adoption agency shall select applicants who:

(a) are able to provide the continuity of a caring relationship;

(b) are informed with regard to a child's ethnic, religious, cultural, and racial heritage; and

(c) understand the needs of a child at various developmental stages.

(6) The agency's policies regarding the consideration of religion and marital status in the selection of adoptive families shall be clearly stated in its initial consultation with prospective adoptive parent(s). This disclosure shall also be clearly stated in writing on the adoptive parent(s)' application for services forms.

(7) The agency shall verify that an applicant's income is sufficient to provide for a child's needs.

(8) The agency shall not reject an applicant solely based upon the applicant's choice to work outside the home. Applicants who work outside the home shall provide a written plan describing how they shall provide security and responsible child care to meet the individual child's needs.

(9) Except when authorized by court order pursuant to Section 78B-6-128, a child placing adoption agency shall not place a child in an adoptive home until the home study and each adult's criminal and abuse background screenings have been approved.

(10) Matching.

(a) Disclose all allowable child/pre-existing parent(s) information to the prospective adoptive family.

(b) Ensure known special needs are disclosed and referrals and information are provided as necessary to prepare the family to meet the long term needs of the child.

(c) A child placing adoption agency shall not make a legal risk placement unless the prospective adoptive parent(s) have first given their written consent, indicating that they have been fully informed of the specific risks involved.

(d) Develop the capacities of the parents to meet the ongoing needs of the child according to the child's needs and the transition plan.

(e) Matches may only occur once sufficient non-identifying information sharing has occurred to allow for informed decision making by both parties.

(11) Placement.

(a) A child placing adoption agency shall provide continuing support to the child and the adoptive family after placement and before finalization of the adoption, to include:

(i) providing or making referrals to services such as counseling, crisis intervention, respite care, and support groups; and

(ii) monitoring the child's adjustment and development.

(b) The frequency of home visits, office contacts, telephone calls, and other contacts by the child placing adoption agency shall depend on the needs of the child and the adoptive family and may vary depending whether the child is an infant, an older child, or a child with medical or other challenges, and whether the adoptive parent(s) are faced with unanticipated problems.

(c) The first contact after placement shall take place within two weeks of placement.

(d) A minimum of one face-to-face supervisory home visit after the initial two week contact shall take place before finalization.

(12) Disruption.

(a) The agency may remove the child from the adoptive placement due to circumstances that may impair the child's security in the family or jeopardize the child's physical and emotional development, including but not limited to incompatibility; mental illness; seriously incapacitating illness; the death of one of the adoptive parent(s); the separation or divorce of the adoptive parent(s); the abuse, neglect, or rejection of the child; the lack of attachment to the child; or a request by the adopting parents to remove the child.

(b) If a child is removed from an adoptive home by a child placing adoption agency, the adoptive parent(s) shall be entitled to appeal the removal decision.

(i) The agency shall provide the adoptive parent(s) written notice of their right to appeal and the procedure for appeal.

(13) Finalization.

(a) A child placing adoption agency shall provide assistance in finalizing the adoption.

R501-7-10. Intercountry Adoptions.

(1) All intercountry adoptions are considered high needs per 62A-4a-601 and require compliance with 62A-4a-609.

(2) In addition to complying with all other rules, laws and statutes regarding adoption, a child placing adoption agency that is a primary provider of inter-country placement services shall document that it has complied with all applicable laws and regulations of the United States and the child's country of origin, and including:

(a) the agency is Hague accredited by a Department of State approved accrediting body;

(b) the child is legally freed for adoption in the country of origin;

(c) the agency verifies and maintains documentation and agreements regarding the credentials and qualifications of all associates working in their behalf in foreign countries; and

(d) information was provided to the adopting parents about naturalization and US citizenship proceedings.

(3) A child placing adoption agency that provides intercountry adoption services shall:

(a) comply with all fee requirements from R501-7-6;

(b) establish additional policies and procedures to be provided to the adoptive parent applicant(s) regarding:

(i) agency and adoptive parent(s) responsibilities regarding intercountry adoption;

(ii) post adopt responsibilities;

(iii) identification and disclosure of medical risks in intercountry adoption;

(iv) service planning; and

- (v) establish an official and recorded method of fund transfers to avoid the use of direct cash transactions to pay for adoption services in other countries;
- (c) additionally include in the written agency fee disclosure required in R501-7-6 the following:
 - (i) itemization of all services and total cost of providing adoption in the child's country of origin and disclosure of whether the fees are paid directly or through the agency to include:
 - (A) foreign country/legal fees;
 - (B) cost of documents required by the agency and by the foreign government as well as costs of apostille or authentication of these documents;
 - (C) required fees paid to USCIS;
 - (D) estimated costs of travel to the foreign country;
 - (E) translation of documents provided to the foreign adoption officials;
 - (F) costs of child care;
 - (G) parent education costs;
 - (H) adopted child passport;
 - (I) USCIS-required medical exam costs;
 - (J) immunization expenses; and
 - (K) any other miscellaneous fees that may apply;
 - (ii) itemization of any mandatory payments to child welfare programs in the country of origin including:
 - (A) any fixed contributions amounts;
 - (B) intended use of payments; and
 - (C) manner in which the transaction will be recorded and accounted for;
 - (d) provide all applicants with written policies governing refunds;
 - (e) notify adoptive applicants within ten business days when information is received that a foreign country is suspending its adoption program;
 - (f) verify and maintain documentation regarding the credentials and qualifications of agents working in their behalf in foreign countries; and
 - (g) in addition to adoptive parent(s) and child file content requirements in R501-7-11, intercountry adoption files shall also include:
 - (i) signed agency agreements and/or contracts;
 - (ii) USCIS approval to proceed with a foreign adoption;
 - (iii) copies of adoption documents required by the adoption officials in the foreign country;
 - (iv) copies of all child information provided by the foreign country;
 - (v) post-adoption reports required by the foreign country; and
 - (vi) copy of the adoption finalization from the foreign country.

R501-7-11. Administrative Documentation.

- (1) Provisions of this section do not apply to the Division of Child and Family Services as they governed by their own rules, statutes, and documentation requirements that are more restrictive and extensive than those outlined here, including 78A-6-306 Shelter Hearing, 307 Placement, 310 Adjudication hearing, 312 Reunification services, 314 Permanency hearing and 316 Termination of parental rights.
- (2) Adoptive Parent(s) Files shall cross-reference all related files and shall contain:
 - (a) signed and dated application for service including agency disclosure of religion and marital status polices on the application;
 - (b) signed and dated adoptive parent(s) adoptive orientation form as required and provided by DHS Office of Licensing;
 - (c) proof that the content of the pre-existing parent(s) adoption orientation form was provided to adoptive parent(s);
 - (d) proof of compliance with 62A-4a-607 regarding the availability of children in state custody for adoption;
 - (e) itemized written fee disclosure statement as described in Section R501-7-6 signed and dated by prospective adoptive parent(s) and agency representative prior to entering any agreements as outlined in;
 - (f) proof of identification or documented due diligence to determine identity;
 - (g) copies of marriage certificates, divorce papers, custody and visitation orders, proof of US citizenship;
 - (h) proof that all allowable child/pre-existing parent(s) information was shared with adoptive parent(s);
 - (i) voluntary consent agreement acknowledging conflict of interests per R501-7-4 (A);
 - (j) documentation and itemization of all reasonable and actual adoption-related expenses that exceed \$25.00 charged to the adoptive parent(s) as outlined in R501-7-6 to include:
 - (i) written agreement and justification for any expenses charged to the prospective adoptive parent(s) outside the fee disclosure statement;
 - (ii) affidavit signed by adoptive parent(s) and agency representative outlining itemized actual expenditures made on behalf of the pre-existing parent(s) as outlined in fees disclosures section R501-7-6;
 - (k) record of all payments received and disbursements made;
 - (l) home study/pre placement evaluation as outlined in R501-7-9 and 78B-6-128;

- (i) and including a child abuse registry report obtained from all applicable child welfare agencies per R501-7-9(3)(c)(i);
- (m) case notes describing all services provided;
- (n) physician report for each prospective adoptive parent;
- (o) background clearances for prospective adoptive parent(s) and all adults over age 18 residing in the home;
- (p) proof of ability to provide health care for an adopted child;
- (q) 4 letters of reference;
- (r) documentation of all requests for information or sharing of information to include:
 - (i) post adopt information exchange with pre-existing parent(s); and
 - (ii) post adopt contact terms with pre-existing parent(s);
- (s) transition plan for child transition to adoptive placement;
- (t) written consent to legal risk placement if applicable;
- (u) documentation of the initial agency contact with the adoptive family within 2 weeks of placement;
- (v) documentation of one in-home face-to-face supervisory visit prior to finalization post two week visit;
- (w) original or certified copy of the order of adoption;
- (x) referral to Mutual Consent Registry;
- (y) signed declaration of each potential birth father to be filed with the court per 78B-6-110.5; and
- (z) any other documentation required in order to show compliance with this Rule.
- (3) Pre-existing parent(s) files shall cross reference all related files and shall contain:
 - (a) signed and dated application for service to include declaration of birth mother's husband or any alleged father's relationship to the child in accordance with 78B-6-110.5;
 - (b) proof of identification or documented due diligence to determine identity;
 - (c) signed and dated pre-existing parent(s) adoptive orientation form as required and provided by DHS Office of Licensing;
 - (d) declaration, certificate or written statement of putative registry search and disclosure of search results from each state identified by the birth mother in compliance with 78B-6-110.5 Sections 1 and 2; and any communications with potential birth fathers;
 - (e) documentation of any requests for information or sharing of information;
 - (f) genetic and social history, and health history;
 - (g) case notes describing services provided including pre relinquishment counseling;
 - (h) original or certified copies of relinquishment transfer or decree of termination of birth mother and birth father rights per 78B-6-125 (or the state governing relinquishment);
 - (i) proof that non-identifying information was provided re: the adoptive parent(s);
 - (j) proof of compliance with 78B-6-143 and 78B-6-144;
 - (k) copies of marriage certificates, divorce papers, custody and visitation orders, if any;
 - (l) certified copies of death certificates, if any, of pre-existing parent(s);
 - (m) pre-existing parent(s) written agreements or refusals of:
 - (i) waiver of confidentiality;
 - (ii) authorization of release of information;
 - (iii) future third party searcher;
 - (iv) post adopt information exchange with adoptive parent(s);
 - (v) post adopt contact terms;
 - (n) verification that all itemized goods and services billed to the adoptive parent(s) were actually provided to and signed upon receipt to the pre-existing parent(s);
 - (o) documentation of other alternative payment sources, including public assistance;
 - (p) referral to Mutual Consent Registry; and
 - (q) any other documentation required in order to show compliance with this rule.
 - (4) Child Files shall cross reference all related files and shall contain:
 - (a) needs assessments, evaluations, family background study of current and historical physical, psychological, genetic and developmental health information as required in R501-7-8 A and B;
 - (b) individualized assessment determining which adoptive family was selected and why as a means to meet all of the identified wishes and needs of all involved;
 - (c) case notes describing all services provided and referred;
 - (d) copies of any DHS licenses for children placed in outside agency foster care;
 - (e) transition plan for child to adoptive placement; and
 - (f) any other documentation required in order to show compliance with this rule.
- (5) File maintenance.
 - (a) In the event that any records required in this Rule are not obtained, the child placing adoption agency shall provide documentation of its efforts to obtain those records.
 - (b) All case files shall be retained for a minimum of 100 years from the date the case is closed.
 - (c) If not continuing to operate and incapable of maintaining their own files for 100 years, the agency shall notify the Office of Licensing and post publicly where the records shall be stored;

(i) it is permissible for a closed child placing adoption agency to transfer closed adoptive files to another licensed child placing for maintenance as long as the chain of control is clear and transparent to the Office and prior clients and there is good reason to believe that the files will be maintained according to law.

(ii) the agency has a written plan involving a secondary entity for contact and file maintenance in the event that the agency changes ownership or ceases to provide child placement adoption services, and notify the Office of Licensing and each client where the records shall be stored; and

(iii) enable record retrieval by individuals with a right to access them.

(d) All adoption records shall be confidential and shall be maintained in a secure location when not in active use;

(i) adoption records shall be accessible only by authorized agency employees or agents;

(ii) no information shall be shared with any person without the appropriate consent forms, except as required by law.

(e) Records regarding the adoptive parents, with the exception of reference letters, are not sealed and information in adoption files can be provided to adoptive parent(s) upon request.

(f) A child placing adoption agency shall maintain and provide accurate annual statistics describing the number of applications received the number of children, pre-existing parent(s), and adoptive parent(s) served, and the number of adoptions and disruptions, and the number of children in agency custody.

R501-7-12. Compliance.

(1) A licensee that is in operation on the effective date of this Rule shall be given 60 days to achieve compliance with this Rule.

KEY: licensing, human services, child placing

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