

October 31, 2023

Liz Fordahl, Counsel  
North Dakota Legislative Council  
State Capitol  
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-03-36  
Licensing of Child-Placing Agencies

Dear Ms. Fordahl:

Enclosed for filing in the office of the Legislative Council is the Notice of Intent to Amend Administrative Rules concerning the above proposed rules as required by N.D.C.C. section 28-32-10. Also enclosed is a copy of the proposed rules.

We have requested publication of an abbreviated newspaper publication notice once in each official county newspaper which will notify the public that an oral hearing on these rules will be held on Friday, December 15, 2023, beginning at 12:00 p.m. and continuing until 1:30 p.m. or until no further testimony is offered, whichever occurs first.

If you have any questions or concerns, please contact me at 328-2311. Thank you.

Sincerely,



Jonathan Alm  
Legal Division

JA/rv

cc: Kelsey Bless, Children & Family Services  
Brittany Fode, Children & Family Services  
Cory Pedersen, Children & Family Services  
Jessica Thomasson, Executive Director of Human Services Division

Enclosures

**LEGAL**

NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D. ADMIN. CODE CHAPTER 75-03-36  
LICENSING OF CHILD-PLACING AGENCIES

TAKE NOTICE that the North Dakota Department of Health and Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapter 75-03-36 at 12:00 p.m. on Friday, December 15, 2023, in Bismarck, N.D. in Room 210, located on the second floor of the Judicial Wing of the State Capitol.

The proposed amendments to N.D. Admin. Code chapter 75-03-36, Licensing of Child-Placing Agencies, are necessary to comply with 2023 Senate Bill No. 2080.

The proposed changes are as follows:

**Section 75-03-36-01** is amended to replace “adoption disruption” with “adoption dissolution”; to add definitions for “adoption placement”, “adoption placement disruption”, “client”, “foster care provider”, and “nonemployee”; to update the definition of “department” and “life book”; and to remove the definitions of “adoption services”, “authorized agent”, “family foster home” and “foster care for children”.

**Section 75-03-36-02** is amended to detail what shall be contained in the initial request for application from prospective child-placing agencies that the Department must review to make a determination and how the application shall be submitted upon approval of initial request for application.

**Section 75-03-36-03** is amended to clarify when a denial or revocation may take place and requires the Department to notify the child-placing agency in writing stating the reasons for denial or revocation of the license.

**Section 75-03-36-04** is amended to clarify for when a suspension may occur and added a correction order may be issued to allow for the child-placing agency to remedy a violation.

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**Section 75-03-36-05** is amended to clarify that the child-placing agency must at minimum have a child placement coordinator maintain an on-site in-state presence unless otherwise approved by the department.

**Section 75-03-36-06** is amended to update, clarify, and further define expectations of a child-placing agency governing body, including incorporating relevant portions of section 75-03-36-20.

**Section 75-03-36-07** is amended to update, clarify, and further define the role of child-placing agency administrators related to implementation and supervision of personnel, program, administrative operations, and policies and procedures.

**Section 75-03-36-08** is being repealed.

**Section 75-03-36-09** is amended to update, clarify, and further define what is required to be placed in employee and nonemployee files and to require a retention policy for employee and nonemployee files.

**Section 75-03-36-10** is amended to update, clarify, and further define qualifications and requirements for the child-placing agency administrator, supervisor, and child placement coordinator. In addition, this section is amended to add a requirement the child-placing agency must establish a case load standard.

**Section 75-03-36-11** is amended to outline requirements for orientation training for employees and professional development.

**Section 75-03-36-12** is being repealed and relevant portions were incorporated into section 75-03-36-13.

**Section 75-03-36-13** is amended to consolidate sections 75-03-36-12 and 75-03-36-13 into one section, to update the background check and criminal conviction requirements for each child-placing owner, employee, or nonemployee with direct contact with clients and for each prospective adoptive parent, foster care provider, or any adult household member, to update the direct bearing offenses and the ability for an individual to be deemed sufficiently rehabilitated, and to establish an individual's right to review.

**Section 75-03-36-14** is amended to replace “volunteer” with “nonemployee” and outline training and documentation requirements for each nonemployee.

**Section 75-03-36-15** is being repealed as students are now included in the definition of “nonemployee” as governed by section 75-03-36-14.

**Section 75-03-36-16** is amended to require that, upon hire and annually thereafter, employees and nonemployees receive training on child abuse and neglect law, policies, and procedures, and to update language regarding a child-placing agency adopting child abuse or neglect policy.

**Section 75-03-36.16.1** is being repealed and relevant portions were incorporated into section 75-03-36-16.

**Section 75-03-36-17** is amended to further define what is meant by an incident and a sentinel event and to require notification within one business day.

**Section 75-03-36-18** is amended to outline what requirements must be addressed by an agency’s written disaster plan to accommodate emergencies.

**Section 75-03-36-19** is amended to outline when an agency’s records may be disclosed and to whom and to indicate the records may be disclosed to the Department upon request.

**Section 75-03-36-20** is being repealed and relevant portions were incorporated into section 75-03-36-06.

**Section 75-03-36-21** is amended to update and offer clarity regarding a performance and quality assurance plan and to add a process to review select child, foster or adoptive families, and personnel files on a quarterly basis.

**Section 75-03-36-22** is amended to omit details no longer needed and to update requirements regarding agency closure.

**Section 75-03-36-23** is amended to omit details no longer needed and to update and offer clarity regarding who the child-placing agency will work in conjunction with and obtain necessary authorization to recruit a prospective adoptive family.

**Section 75-03-36-24** is amended to update and offer clarity regarding services a child-placing agency will provide to birth parents, including making reasonable efforts made by the agency to engage birth parents in planning for adoptive placement. In addition, clarity was offered regarding fees paid by the prospective adoptive parents.

**Section 75-03-36-25** is amended to offer clarity regarding services to the child including creation of a life book, and recruitment efforts beginning immediately and ongoing as directed by the referral for the child.

**Section 75-03-36-26** is amended to update and offer clarity regarding selection of adoptive parents to meet the child's permanency goal, to combine relevant provisions from 75-03-36-27 which added recruitment of foster care providers to provide interim care for infants, and to detail a child-placing agency ability to collaborate with the Department to identify a licensed foster care provider for interim care for infants.

**Section 75-03-36-27** is being repealed and combined with 75-03-36-26.

**Section 75-03-38-28** is amended to update the requirements for when a child-placing agency may not place a child into an adoptive home, adds the requirement for the child-placing agency to consider the foster care assessment based on 2023 Senate Bill No. 2080, and to update the requirements for adoption and preplacement services.

**Section 75-03-36-29** is amended to update policy requirements for the placement of a child legally free for adoption.

**Section 75-03-36-30** is amended to update the requirements for an adoption and post-placement and post-finalization policy.

**Section 75-03-36-31** is amended to omit details no longer needed and to offer clarity regarding an adoption home assessment.

**Section 75-03-36-32** is amended to update the requirements regarding how the child-placing will create the child's case plan.

**Section 75-03-36-33** is amended to update the requirements regarding what the child-placing agency must keep in the child's case record, the prospective adoptive parent case record, and the birth parent case record.

**Section 75-03-36-34** is amended to update the requirements regarding what the child-placing agency should do to offer supportive services to the child and adoptive parents after a placement disruption.

**Section 75-03-36-35** is amended to omit details no longer needed and offer clarity regarding how the child-placing agency will recruit and retain foster care providers, collaborate with the custodial agency and engage in transition planning for children aging out of foster care, and to require the child-placing agency to implement a discharge plan for each child placed by the agency.

**Section 75-03-36-36** is amended to omit details no longer needed and offer clarity regarding requirements of documentation needed in the child file and the foster care provider file.

**Section 75-03-36-37** is amended to omit details no longer needed and to update requirements of services provided by the child-placing agency and documentation requirements.

**Section 75-03-36-38** is amended to omit details no longer needed, to offer clarity and consistency through this administrative code other foster care related codes to no longer refer to “foster parents” and instead to make reference to “foster care providers”, and to update requirements to ensure a child-placing agency has a plan to recruit and retain providers who support cultural diversity and inclusion.

**Section 75-03-36-39** is amended to omit details no longer needed, to update to emphasize how the child-placing agency will evaluate placement decisions, and to update the evaluation requirements.

**Section 75-03-36-40** is being repealed and combined with 75-03-35 Foster care- Programs and Services.

**Section 75-03-36-41** is begin repealed as it is addressed in federal law and managed by the custodial agency.

**Section 75-03-36-42** is amended to offer the ability for the department to grant a variance to a section of administrative code, provided the variance does not pose a danger to the health or safety of a child cared for by the child-placing agency.

The proposed amendments are not anticipated to have an impact on the regulated community in excess of \$50,000. No taking of real property is involved in this rulemaking action.

Copies of the proposed rules are available for review at human service zones and at human service centers. Copies of the proposed rules and the regulatory analysis relating to these rules, may be requested by telephoning (701) 328-2311. Written or oral data, views, or arguments may be entered at the hearing or sent to: Rules Administrator, North Dakota Department of Health and Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250. Written data, views, or arguments on the proposed rules must be received no later than 5:00 p.m. on Tuesday, December 26, 2023.

**ATTENTION PERSONS WITH DISABILITIES:** If you plan to attend the hearing and will need special facilities or assistance relating to a disability, please contact the Department of Health and Human Services at the above telephone number or address at least two weeks prior to the hearing.

Dated this 31st day of October, 2023.

October 31, 2023

RE: Proposed Amendments to N.D. Admin. Code chapter 75-03-36  
Licensing of Child-Placing Agencies

TO WHOM IT MAY CONCERN:

The Department of Health and Human Services is proposing amendments to N.D. Admin. Code chapter 75-03-36, Licensing of Child-Placing Agencies. The department has adopted procedures to assure public input into the formulation of the rules prior to adoption.

In conformity with those procedures, we are providing you with a copy of the proposed rules and are requesting that you provide any written data, views, or arguments no later than 5:00 p.m. on Tuesday, December 26, 2023.

The department has scheduled an oral hearing for Friday, December 15, 2023. Further information concerning the public hearing is included in the attached notice of proposed rulemaking and public hearing.

Your participation is welcomed, as are your suggestions. Please send all written data, views, or arguments to: Rules Administrator, Department of Health and Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Bismarck, ND 58505-0250.

Sincerely,



Sara Stolt  
Interim Commissioner

SES/rv

Enclosures

cc: Liz Fordahl, Legislative Council  
Kelsey Bless, Children & Family Services  
Brittany Fode, Children & Family Services  
Cory Pedersen, Children & Family Services  
Jessica Thomasson, Children & Family Services

**EXECUTIVE OFFICE**

GOVERNOR  
Doug Burgum

INTERIM COMMISSIONER  
Sara Stolt