

## 1002.0 Waivers – Foster Care & Adoption

### 1002.1 Policy Approval Clearance Record

<input checked="" type="checkbox"/> State Policy	This policy supersedes: Policy Number 04-05	Number of pages in Policy: 4
Review by Representative from the Office of the Attorney General:	Date: N/A	Date Policy Effective: 04/01/2004
DCFS Administrator Approval Signature: On File	Date: 03/31/2004	Policy Lead: Deputy Administrator
DCFS Reformat:	Date: 12/14/07	Policy Lead: Wanda Scott

### 1002.2 Statement of Purpose

**1002.2.1 Policy Statement:** Child Welfare Agencies will insure criminal investigations are conducted pursuant to requirements under NRS 127 & 424; and NAC 127 & 424; and will notify and request separate waivers as warranted due to information obtained through updated criminal background investigations or substantiated allegations of abuse/neglect pursuant to NRS 432B.

Per NAC 424.195 and NAC 127.420, the administrator or, if the administrator chooses to designate a designee, the designee of the administrator may, on a case-by-case basis, waive a specific requirement of NAC 424-Foster Homes for Children and NAC 127-Adoption of Children, if the waiver is for the betterment of the foster care program and child and is not in violation of any statute of this state or federal law.

**1002.2.2 Purpose:** The purpose of this policy is to define the DCFS waiver authority and the waiver process for applicants/licensees for the foster care and adoption programs.

Adoption and Safe Families Act of 1997 (ASFA) (P.L. 105-89) – Amends the 1980 Child Welfare Act (P.L. 96-272) which clarifies that the health and safety of children served by child welfare agencies must be their paramount concern and aims to move children in foster care more quickly into permanent homes. Before granting final approval, states are required to conduct criminal records checks for any prospective foster or adoptive parents of a child eligible for federal subsidies. Approval must be denied in any case of a felony conviction for child abuse or neglect, spousal abuse, crimes against children, or crimes involving violence. Approval must be denied for five years after any case of a felony conviction for physical assault, battery or a drug-related offense.

### 1002.3 Authority

ASFA – P.L. 105-89  
45 CFR Ch. XIII 1356.30  
Social Security Act Section 471(a)(20)(A)  
NRS 127.281  
NRS 424.031; .033  
NAC 127.420  
NAC 424.195; .280  
NAC 432B.430; .435

## 1002.4 Definitions

- 1002.4.1 Administrator:** Administrator of the Division of Child and Family Services
- 1002.4.2 Deputy Administrator:** Rural Region Deputy Administrator of the Division of Child and Family Services
- 1002.4.3 Director of Child Welfare Agency:** Director of Washoe County Department of Social Services and Director of Clark County Department of Family Services.
- 1002.4.4 NAC 424:** Nevada Administrative Code, Regulations and Standards for Foster Home for Children (Licensure).
- 1002.4.5 NAC 127:** Nevada Administrative Code, Adoption of Children.
- 1004.4.6 State:** The Family Programs Office (FPO) at the Division of Child and Family Services (DCFS).

## 1002.5 Procedures

### 1002.5.1 Procedures

- A.** Federal (Title IV-E) funds may not be claimed for placement costs for a child placed in a home with a foster care license, or adoption assistance for a child placed in an adoptive home, with an approved waiver that does not meet ASFA requirements.
- B.** The Child Welfare Agency Directors in Washoe and Clark Counties and the Rural Region Deputy Administrator have DCFS Administrator designated authority to waive a specific requirement of NAC 424 (including CANS results) and NAC 127 **with the following EXCEPTIONS** as defined in ASFA:
1. Has been convicted of a crime involving harm to a child;
  2. Has charges pending against him for a crime involving harm to a child; or
  3. Has been arrested and is awaiting final disposition of the charges pending against him for a crime involving harm to a child.
  4. Has felony conviction for, has charges pending against him for a felony conviction for, or has been arrested and is awaiting final disposition of the charges pending against him for a felony conviction for:
    - Child abuse or neglect;
    - Spousal abuse;
    - Any crime against children, including child pornography;
    - Any crime involving violence, including rape, sexual assault or homicide, but not including any other physical assault or battery; or
    - Physical assault, battery, or a drug-related offense, if the assault, battery, or drug-related offense was committed within the last 5 years.
- C.** All waiver requests submitted to the DCFS Administrator pursuant to Section 1002.5.1B-PROCEDURES must be submitted on a form designated by the Administrator. (Refer to Attachment 1002A).

- D. Waivers from ASFA requirements may be submitted for identified **specific** placements only.
- E. Waivers from ASFA requirements denied by a child welfare agency director, or the rural region deputy, do not need to be submitted to the DCFS Administrator.

**1002.5.2 Timelines:** As required.

**1002.5.3 Forms:**

**A. FPO 1002A: Application for Foster Care and/or Adoption ASFA Waiver**

- 1. Jurisdictions must use this application form as written. The application may not be modified.

**1002.6 Jurisdictional Action**

**1002.6.1 Development of Internal Policies:** Jurisdictions must follow this policy as written.

**1002.6.2 Timelines:** As required.

**1002.6.3 Tools & Forms:** FPO 1002A: Application for Foster Care and/or Adoption ASFA Waiver.

**1002.6.4 Documentation:** Documentation of ASFA waiver requests and dispositions for each request shall be maintained for purposes of case and quality assurance reviews.

**A. Case File Documentation:**

Table 1002.1: Case File Documentation for Waivers—Foster Care and Adoption Policy

File Location	Data Required
Written information will be located in adoption and foster home licensing files.	Applications for waiver; attachments cited on the application and required for waiver review and approval consideration; written disposition of the waiver request (approval/denial by DCFS Administration).

**B. UNITY Documentation (electronic):**

Table 1002.2: UNITY Documentation for Waivers—Foster Care and Adoption Policy

Applicable UNITY Screen	Data Required
CFS 447 Adoption Approval Maintenance Window	Date criminal waiver approved by DCFS.
CFS175 Provider/Facility License Maintenance Windows	Date waiver issued.  Note in “Explain” box for each screen, the nature of the waiver granted.

**1002.6.5 Supervisory Responsibility:** Review foster home licensing and adoption home studies, and conduct case file reviews to ensure compliance with this policy.

## **1002.7 State Responsibilities**

### **1002.7.1 Participants in Policy Development**

- A. FPO Staff:** Social Service Specialist
- B. Jurisdictional Representatives:** N/A
- C. External Stakeholders:** FPO Administrators, FPO Managers, FPO Specialists

### **1002.7.2 Technical Assistance**

- D. Requesting Technical Assistance:** N/A
- E. Relaying TA Information:** N/A
- F. Evidenced Based Practice:** N/A

### **1002.7.3 Clearance Process**

- A.** Division Administrator approval March 31, 2004.

### **1002.7.4 State Oversight**

- A.** The State will track jurisdictional compliance through foster home licensing and adoption case reviews.

## **1002.8 Policy Cross Reference**

- 1002.8.1** 1004 Structured Analysis Family Evaluation (SAFE)

## **1002.9 Attachments**

- 1002.9.1** **FPO 1002A:** Application for Foster Care and/or Adoption ASFA Waiver