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INSTRUCTIONAL MEMORANDUM

DATE: July 29, 2016

TO: Tim Burch, Director, Clark County Department of Family Services
Amber Howell, Director, Washoe County Department of Social Services
Reesha Powell, Deputy Administrator, Division of Child and Family Services

FROM: Kelly Wooldridge, Administrator, Division of Child and Family Services

SUBJECT: Guidelines for issuing "non-safety" waivers for relative foster homes

LEGAL REFERENCES: Social Security Act Section 471 (a)(10)(D), Nevada Administrative Code 424.185

PURPOSE: This *Instructional Memorandum* is to provide guidelines to local child welfare agencies for when a non-safety waiver for licensed relative foster homes may be issued.

INSTRUCTION:

The Fostering Connections Act codified federal regulations allowing states to waive non-safety-related foster care licensing standards on a case-by-case basis for relatives seeking to become foster parents, and to seek Title IV-E reimbursement for eligible children placed with such kin. The Act specifically states that the "non-safety standards" are "as determined by the state."

In order to comply with the "case-by-case" requirement, any relative home that is applying for licensure that does not meet the requirements of the Nevada Administrative Code (NAC), may be approved for a "non-safety waiver" if no safety concerns are identified in the home. Any requirement of NAC, which includes issues related to substantiation histories found in the central registry, and issues related to the residence, may be waived if it is determined that the NAC violation does not impact the safety of the child. The issuance of a non-safety waiver does not preclude the home from Federal Title IV-E eligibility.

Please note that criminal offenses listed in NRS 424.031 do not require a waiver from the DCFS administrator. Each local child welfare agency should develop an internal review and approval process to assess safety and to guide a decision on whether or not to issue a license when an offense listed in NRS 424.031 is identified in the background of a potential foster parent applicant.

Exceptions to Waivers

In no circumstances may a relative be approved for a non-safety waiver if the relative has a disqualifying crime as defined by the Adoption and Safe Families Act (ASFA). Per the Social Security Act Section 471 (a)(10)(D), ASFA disqualifying crimes are as follows:

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.

Any waiver granted for these purposes would be considered a waiver from safety, and therefore ineligible for IV-E.

Eligibility for a non-safety waiver

When determining eligibility to waive any NAC requirement that a relative is unable to meet, the following types of information and questions should be considered:

1. Are there particular values and advantages the relative home brings to the child/children?
2. Is there any jeopardy to health or safety by placing the child/children in the home?
3. Are there other equally suitable relative homes that would not require a waiver?
4. Has the child/children already been placed in the home and an assessment of safety that yielded no safety concerns occurred at the time of placement?
5. How long has the child been in the home?
6. Does this placement ensure extracurricular activity, educational, and/or religious needs are met?
7. How does this placement option assist in achieving permanency for the child?
8. Would siblings have to be separated in order to place in an alternative home (if applicable)?
9. If the waiver is not approved, what will be the alternative?

If, after assessment of the above mentioned issues the local child welfare agency deems the relative home is safe, the local child welfare agency shall submit an electronic waiver application on the form attached to statewide policy "1002- Waiver- Foster Care and Adoption":

http://dcfs.nv.gov/uploadedFiles/dcfsvgov/content/Policies/CW/1002_Waivers-FosterCareAdoption.pdf.

The waiver shall be submitted to the DCFS Administrator or designee via email at waiverrequest@dcfs.nv.gov. The DCFS Administrator, or designee, will then review the information and make a determination within 3 business days. The prospective relative applicant should be notified in writing of any licensing decisions made on their behalf, within 2 business days of the decision being made.

Please note, per NAC 424.185 the decision of the licensing authority to deny an initial application may be subject to review by the Administrator or designee. However, such denials are not subject to the appeal process. Foster home licensure occurs at the discretion of the licensing authority.