

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Rule making related to foster family homes

The Human Services Department hereby amends Chapter 113, “Licensing and Regulation of Foster Family Homes,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6.

Purpose and Summary

The President signed the Bipartisan Budget Act of 2018, P.L. 115-123, into law on February 9, 2018. P.L. 115-123 includes the Families First Prevention Services Act (FFPSA) in Division E, Title VII. Section 50731 of the FFPSA directs the federal Department of Health and Human Services (HHS) to “identify reputable model licensing standards with respect to the licensing of foster family homes” (as defined in section 472(c)(1) of the Social Security Act). In response to this directive, the Children’s Bureau of HHS issued the National Model Foster Family Home Licensing Standards. These amendments pertain to the licensing and regulation of foster family homes and are required to align with the federal model licensing standards. The following requirements are added to the administrative rules:

- Applicants must be able to communicate with the licensing agency and health care and other service providers.
- At least one applicant in the home must have functional literacy: a level of reading, writing and calculation skills sufficient to function in the community in which an individual lives. An example for a foster parent would be to have the ability to read labels on medications in order to properly administer the medications to a child.
- Applicants and all household members must disclose any past or current mental health and/or substance abuse issues. The Department may require further documentation and/or evaluation to determine the suitability of the home.
- There must be at least one scheduled in-home, individual interview of each household member to observe family functioning and assess the family’s capacity to meet the needs of a child in foster care. The contracted agency will determine whether to interview or just observe each household member based on the household member’s age and development.
- All household members who are caregivers must have up-to-date whooping cough vaccines unless contrary to the person’s health.
- The contracted agency must obtain at least three references, including at least one from a relative and one from a nonrelative.
- The applicant’s home must meet the following standards concerning swimming pools, hot tubs and spas:
 - Swimming pools must have a barrier on all sides at least four feet high.
 - Swimming pools must have their methods of access through the barrier equipped with a safety device, such as a bolt lock.
 - Swimming pools must be equipped with a lifesaving device, such as a ring buoy.
 - If the swimming pool cannot be emptied after each use, the pool must have a working pump and filter system.
 - Hot tubs and spas must have safety covers that are locked when not in use.

- The applicant’s home must meet the following standards concerning hazardous materials and first aid supplies:
 - Applicants must prevent the child’s access, as appropriate for the child’s age and development, to all medications, poisonous materials, cleaning supplies, other hazardous materials and alcoholic beverages. All medications should be kept in a locked cabinet.
 - Applicants must maintain first aid supplies as recommended by the American Red Cross.
 - Assurances from applicants must be agreed upon, including:
 - They will not use any corporal or degrading punishment on any child in the home.
 - They will not use any illegal substances, abuse alcohol by consuming it in excess amounts, or abuse legal prescription and nonprescription drugs by consuming them in excess amounts or using them contrary as indicated.

Weapons and ammunition must be separately stored, locked, unloaded and inaccessible to children. Currently, the rules require that weapons and firearms be maintained in a locked place such as a gun case. Federal requirements now specify the type of place and a list of weapons and ammunition that must be identified in the rule.

The Model Licensing Standards were to be in effect April 1, 2019. The Department requested additional time from the federal HHS to implement the standards through administrative rules. Additional time was approved by HHS. The Department is moving forward with this rule making, since Iowa is out of compliance in several areas. Failure to meet the Model Family Home Foster Licensing Standards could result in the loss of Iowa’s IV-E federal funding.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 8, 2020, as **ARC 5024C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Council on Human Services on June 10, 2020.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 441—1.8(17A,217).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on September 1, 2020.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **113.3(4)“a”** as follows:

a. Process. Information for the home study is gathered primarily through the required preservice training as described in rule 441—117.1(237). ~~In addition: Tribal agencies may also be involved in conducting home studies for American Indian and Alaska Native children. 42 U.S.C.A. Section 671(a)(26)(B) provides that any receiving state must treat any tribal home study report as meeting the requirements imposed by the state for the completion of a home study.~~

(1) No change.

(2) The worker shall hold at least one face-to-face interview with each member of the household in the applicant’s home to observe family functioning and to assess the family’s capacity to meet the needs of a child in foster care. The worker will determine whether to interview or just observe each household member based on the household member’s age and development.

(3) and (4) No change.

ITEM 2. Amend subparagraph **113.3(4)“b”(5)** as follows:

(5) Medical, mental, and emotional conditions that may affect the applicant’s ability to parent a child; treatment history; current status of treatment; and the evaluation of the treatment. Applicants and all household members must disclose any past or current mental health or substance abuse issues, or both. The department may require further documentation or evaluation, or both, to determine the suitability of the home.

ITEM 3. Renumber subparagraphs **113.3(4)“b”(6) to (16)** as **113.3(4)“b”(7) to (17)**.

ITEM 4. Adopt the following **new** subparagraph **113.3(4)“b”(6)**:

(6) All children who are household members must be up to date on immunizations jointly recommended by the American Academy of Pediatrics, the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, and the American Academy of Family Physicians, unless the immunization is contrary to the child’s health as documented by a licensed health care professional.

ITEM 5. Amend paragraph **113.5(2)“c”** as follows:

c. When there is a swimming pool or child’s plastic pool on the premises: The applicant’s home must meet the following standards concerning swimming pools, hot tubs and spas:

(1) A child’s plastic pool shall be drained daily and shall be inaccessible to children when it is not in use. Swimming pools must have a barrier on all sides at least four feet high.

(2) An aboveground or in-ground swimming pool that is not fenced shall be covered whenever the pool is not in use. The cover shall meet or exceed the ASTM International (formerly known as the American Society for Testing and Materials) specification intended to reduce the risk of drowning by inhibiting access to the water by children under five years of age. Swimming pools must have their methods of access through the barrier equipped with a safety device, such as a bolt lock.

(3) ~~An uncovered aboveground swimming pool shall be enclosed with an approved fence that is nonclimbable and is at least four feet high. The height of the side of the pool may be included.~~ Swimming pools must be equipped with a lifesaving device, such as a ring buoy.

(4) ~~An uncovered in-ground swimming pool flush with the ground shall be enclosed with an approved fence that is nonclimbable and is at least four feet high. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system.~~

(5) Hot tubs and spas must have safety covers that are locked when not in use.

The foster parent or other adult shall provide reasonable supervision according to the ages and swimming abilities of the foster children when they are using the pool.

ITEM 6. Rescind paragraph **113.5(2)“d.”**

ITEM 7. Amend subparagraph **113.5(6)“a”(1)** as follows:

(1) Children over ~~6~~ five years of age shall not share a bedroom with a child of the opposite sex.

ITEM 8. Amend paragraph **113.5(6)“b”** as follows:

b. Children ≥ two years of age or older shall be provided bedroom space other than in the foster parents' bedroom. Foster children under the age of ≥ two may share a bedroom with the foster parent in an individual crib.

ITEM 9. Amend subrule 113.5(9) as follows:

113.5(9) Toilet Bathroom facilities.

a. Bathroom facilities shall have at least one toilet, sink, and tub or shower in safe operating condition.

~~*b.* Toilet Bathroom facilities shall have natural or artificial ventilation.~~

~~*b.* All toilet facilities shall be maintained in a clean and working condition.~~

ITEM 10. Amend paragraph **113.5(10)“b”** as follows:

b. Fireplaces and water heaters shall be vented to the outside atmosphere. The temperature of any water heaters must be set in accordance with the manufacturer's recommendations. Kerosene heaters and gas-fired space heaters shall not be used to heat any space in the home.

ITEM 11. Adopt the following **new** subrule 113.5(12):

113.5(12) Phone. A working phone or access to a working phone shall be in close walking proximity to an applicant's living space.

ITEM 12. Amend subrule 113.6(1) as follows:

113.6(1) Food preparation and storage. Food preparation areas shall be clean, and ~~there shall be facilities to store perishable food at cold temperatures and storage areas for other nonperishable food supplies~~ the home shall have kitchen facilities with a sink, refrigerator, stove, and oven in safe operating condition.

ITEM 13. Adopt the following **new** subrule 113.6(6):

113.6(6) Rodent and insect infestation. The home shall prevent or eliminate rodent and insect infestation.

ITEM 14. Amend paragraph **113.7(1)“a”** as follows:

~~*a.* A working~~ At least one UL (Underwriter's Laboratory)-approved smoke detector. On floors that are used for sleeping, the smoke detector shall be in a location where sleeping areas can be alerted. For hearing-impaired children, the foster parent shall install a smoke detector in the child's bedroom that will use an alternative means of waking the child.

ITEM 15. Amend subrule 113.7(3) as follows:

113.7(3) Safety plan. The family shall have an emergency safety plan to be used for fire, tornado, blizzard, flood, other natural or manmade disasters, accidents, medical issues, and other life-threatening situations for children in out-of-home placements. The safety plans shall state the action that the foster parents and children are to take in each situation that may occur and shall be posted in a prominent place in the home.

~~*a. to c.* No change.~~

~~*d.* Applicants must maintain a comprehensive list of emergency telephone numbers, including poison control, and post those numbers in a prominent place in the home. If there is a landline phone located in the home, the numbers must be posted next to the phone.~~

ITEM 16. Amend subrule 113.7(4) as follows:

~~**113.7(4) Medications, first aid and poisonous substances.** All medications and poisonous, toxic, or otherwise unsafe substances shall be kept secured from access by children.~~

~~*a. and b.* No change.~~

c. Applicants must prevent the child's access, as appropriate for the child's age and development, to all medications, poisonous materials, cleaning supplies, other hazardous materials and alcoholic beverages.

d. Applicants must maintain first aid supplies as recommended by the American Red Cross.

ITEM 17. Amend paragraph **113.7(5)“a”** as follows:

a. Weapons and firearms shall be maintained in a locked place, such as a gun case. The following weapons must be stored in an inoperative condition in a locked area inaccessible to children:

- (1) Firearms;
- (2) Air guns;
- (3) BB guns;
- (4) Hunting slingshots;
- (5) Any other projectile weapons.

ITEM 18. Amend paragraph **113.7(5)“b”** as follows:

b. Ammunition All ammunition, arrows or projectiles for such weapons shall be maintained in a locked place separate from the firearms.

ITEM 19. Adopt the following **new** paragraph **113.7(5)“f”**:

f. Foster parents who are also law enforcement officials and can document that their jurisdiction requires them to have ready and immediate access to their weapons may be exempt from these weapon requirements provided they adopt and follow a safety plan approved by the department.

ITEM 20. Amend subrule 113.7(6) as follows:

113.7(6) Transporting foster children.

a. Foster parents shall have a valid Iowa driver’s license and adequate motor vehicle insurance when the foster parents transport foster children in a motor vehicle.

b. Foster parents shall ensure that appropriate child safety restraints, as required by Iowa law, are used for all foster children when the foster parents transport the children in a motor vehicle.

a. Foster parents will ensure that if a privately owned vehicle, owned by the applicants, family or friends, is used to transport the child in foster care, it must be inspected (if applicable under state law), registered, and insured and meet all applicable state or tribal requirements to be an operable vehicle on the road.

b. The driver will have a valid Iowa driver’s license.

c. Safety restraints will be used that are appropriate to the child’s age, height, and weight.

e. d. Any motor vehicles used to transport foster children shall be smoke-free when foster children are being transported.

e. Weapons must not be transported in any vehicle in which the child is riding unless the weapons are made inoperable and inaccessible.

f. Foster parents will have access to reliable public transportation if they do not have access to a reliable, registered, and insured vehicle.

ITEM 21. Renumber subrule **113.11(3)** as **113.11(4)**.

ITEM 22. Adopt the following **new** subrule 113.11(3):

113.11(3) Whooping cough vaccine. All household members who are caregivers must have up-to-date whooping cough vaccines unless contrary to the person’s health.

ITEM 23. Reletter paragraphs **113.12(5)“d”** to **“i”** as **113.12(5)“f”** to **“k.”**

ITEM 24. Adopt the following **new** paragraphs **113.12(5)“d”** and **“e”**:

d. Be able to communicate with the licensing agency and health care and other service providers.

e. Have functional literacy, a level of reading, writing and calculation skills such as having the ability to read labels on medications in order to properly administer them.

ITEM 25. Amend subrule 113.14(1) as follows:

113.14(1) At least three additional unsolicited references shall be checked for all foster family home applicants in addition to a minimum of three references provided by the applicant. Required references shall include a minimum of one relative and one nonrelative.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/1/20.