

**PROPOSED REGULATION OF THE
DIVISION OF CHILD AND FAMILY SERVICES OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES**

LCB FILE NO. R103-24I

**The following document is the initial draft regulation proposed
by the agency submitted on 05/14/2024**

PROPOSED REGULATION OF THE
DIVISION OF CHILD AND FAMILY SERVICES
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
NRS 432B.190

Section 1. Chapter 432B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. *“Family foster home” has the meaning ascribed to in it NRS 424.013.*

Sec. 3. *As used in sections 3 to 12, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 4, 5 and 6 of this regulation have the meanings ascribed to them in those sections.*

Sec. 4. *“Family and permanency team” means the family and permanency team assembled for a child pursuant to section 8 of this regulation.*

Sec. 5. *“Qualified individual” means a trained professional or licensed clinician who is not an employee of an agency which provides child welfare services, and who is not connected to, or affiliated with, any placement setting in which children are placed by an agency which provides child welfare services, unless the Secretary of the United States Department of Health and Human Services has approved a request by the Division made pursuant to 42 U.S.C. § 675a(c)(1)(D)(ii) to waive one or more of these requirements.*

Sec. 6. *“Qualified residential treatment program” has the meaning ascribed to it in 42 U.S.C. § 672(k)(4).*

Sec. 7. 1. *Not later than 30 days after a child is placed in a qualified residential treatment program, the qualified residential treatment program must ensure that the child is assessed by a qualified individual. The qualified individual must:*

- (a) Assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool approved by the Secretary of the United States Department of Health and Human Services;*
- (b) Determine whether the needs of the child can be met with family members or through placement in a family foster home and, if not, which setting from among the settings set forth in 42 U.S.C. § 672(k)(2) would provide the most effective and appropriate level of care for the child in the least restrictive environment and be consistent with the short term and long term goals for the child, as specified in the plan for the permanent placement of the child;*
- (c) Develop a list of child-specific short term and long term mental and behavioral health goals for the child; and*
- (d) Work in conjunction with the family of, and the family and permanency team of, the child while conducting and making the assessment pursuant to this section.*

2. If the qualified individual determines pursuant to subsection 1 that the child should not be placed in a family foster home, the qualified individual must specify in writing:

- (a) The reasons why the needs of the child cannot be met by the family of the child or in a family foster home. A shortage or lack of family foster homes is not an acceptable reason for determining that the needs of the child cannot be met in a family foster home.*

(b) Why the recommended placement in a qualified residential treatment program is the setting that will provide the child with the most effective and appropriate level of care in the least restrictive environment and how that placement is consistent with the short term and long term goals for the child, as specified in the plan for the permanent placement of the child.

Sec. 8. *1. An agency which provides child welfare services shall assemble a family and permanency team for each child placed in a qualified residential treatment program.*

2. The team assembled pursuant to subsection 1 must consist of:

(a) All appropriate biological family members, relatives and fictive kin of the child;

(b) All appropriate professionals who are a resource to the family of the child, including, without limitation, teachers, medical or mental health care providers who have treated the child, and clergy; and

(c) If the child is 14 years of age or older, the members of the permanency planning team for the child who are selected by the child pursuant to 42 U.S.C. § 675(5)(C)(iv).

Sec. 9. *1. An agency which provides child welfare services shall, for each child placed in a qualified residential treatment program, document in the written case plan of the child developed pursuant to NAC 432B.400:*

(a) The reasonable and good faith effort of the agency which provides child welfare services to identify and include each person described in subsection

- 2 of section 8 of this regulation on the family and permanency team of the child;*
- (b) All contact information for members of the family and permanency team of the child;*
 - (c) All contact information for other family members and fictive kin of the child who are not members of the family and permanency team of the child;*
 - (d) Evidence that meetings of the family and permanency team of the child, including, without limitation, meetings related to the assessment required pursuant to section 7 of this regulation, are held at a time and place that are convenient for the family of the child;*
 - (e) If reunification of the child with his or her family is the goal, evidence demonstrating that the parent from whom the child was removed provided input on the members of the family and permanency team of the child;*
 - (f) Evidence that the assessment required pursuant to section 7 of this regulation was carried out in conjunction with the family and permanency team of the child;*
 - (g) The placement preferences of the family and permanency team of the child relative to the assessment that recognizes that children should be placed with their siblings unless there is a finding by the court that such placement is contrary to the best interests of the child; and*
 - (h) If the placement preferences of the family and permanency team of the child and the child are different from the placement setting recommended by the qualified individual conducting the assessment required pursuant to section*

7 of this regulation, the reasons why the preferences of the family and permanency team and of the child were not recommended.

2. An agency which provides child welfare services shall, for each child placed in a qualified residential treatment program, include in and make part of the written case plan of the child developed pursuant to NAC 432B.400:

(a) The written documentation prepared by the qualified individual pursuant to subsection 2 of section 7 of this regulation; and

(b) The written determination issued by the court pursuant to subsection 5 of section 35 of Assembly Bill No. 148 from the 2023 Legislative Session.

Sec. 10. *1. At a hearing conducted pursuant to subsection 2 of section 35 of Assembly Bill No. 148 from the 2023 Legislative Session, the court shall consider the assessment, determination and documentation made by the qualified individual who conducted the assessment of the child pursuant to section 7 of this regulation.*

2. As part of each review conducted pursuant to NRS 432B.580 and at each hearing held pursuant to NRS 432B.590 for the duration of the placement of a child in a qualified residential treatment program, the agency which provides child welfare services shall submit evidence documenting:

(a) The specific treatment or service needs that will be met for the child in the placement and the length of time that the child is expected to need the treatment or services; and

(b) The efforts made by the agency which provides child welfare services to prepare the child to return home or to be placed in a family foster home or with a fit and willing relative, a legal guardian or an adoptive parent.

Sec. 11. *If an agency which provides child welfare services places a child in a qualified residential treatment program for more than 12 consecutive months or more than 18 nonconsecutive months, or if the child is less than 13 years of age, for more than 6 consecutive or nonconsecutive months, the agency shall submit to the Secretary of the United States Department of Health and Human Services:*

- 1. The most recent versions of the evidence and documentation considered as part of a review conducted pursuant to NRS 432B.580 or a hearing held pursuant to NRS 432B.590; and*
- 2. The signed approval of the head of the agency for the continued placement of the child in a qualified residential treatment program.*

Sec. 12. *1. Each qualified residential treatment program must use a trauma-informed model of care that is designed to address the needs, including, without limitation, the clinical needs, of children with serious emotional or behavioral disorders or disturbances.*

- 2. A trauma-informed model of care required pursuant to this section must include a process for identifying the signs and symptoms of trauma in children and must address the needs of children related to trauma. This process must include, without limitation:*

- (a) Screening for trauma by completing a trauma-specific screening tool for each child placed in the qualified residential treatment program or obtaining the results of a trauma-specific screening tool that was completed for the child within 30 days before the child was placed in the qualified residential treatment program; and*

- (b) Ensuring that trauma-based interventions targeting specific trauma-related symptoms are available to each child placed in the qualified residential treatment program when needed to assist the child in obtaining services.*
3. *In developing and providing services to each child according to the trauma-informed model of care required pursuant to this section, each qualified residential treatment program must:*
- (a) Recognize the impact of trauma on a child when determining the service needs of the child and providing services to the child;*
- (b) Allow each child to participate in reviewing and developing the individualized treatment or service plan of the child;*
- (c) Provide person-centered and culturally responsive services to each child;*
- (d) Adjust services for each child to address the additional needs of the child;*
- (e) Assess each child to determine if the child needs trauma-specific treatment interventions;*
- (f) Identify the manner in which the program will provide trauma-specific treatment interventions to the child;*
- (g) Provide trauma-specific treatment interventions to a child that target the specific trauma-related symptoms of the child; and*
- (h) Train all clinical staff of the program on trauma-specific treatment interventions.*
4. *Each qualified residential treatment program must provide a physical, social and emotional environment that:*
- (a) Promotes the physical and psychological safety of each child;*
- (b) Avoids any aspect of the environment that may be retraumatizing;*

- (c) Responds to trauma experienced by each child and the other needs of the child; and*
 - (d) Includes designated spaces that are available to each child for engaging in sensory and self-soothing activities.*
- 5. Each qualified residential treatment program must base the policies and procedures of the program on trauma-informed principles. These policies and procedures must:*
 - (a) Describe the manner in which the program provides services according to a trauma-informed model of care;*
 - (b) Describe the manner in which the environment of the program satisfies the requirements set forth in subsection 4;*
 - (c) Prohibit the use of aversive consequences on a child for a violation of a program rule or for any other reason; and*
 - (d) Describe the process for the manner in which the program incorporates trauma-informed principles and practices into the organizational culture of the program.*
- 6. Each qualified residential treatment program must, before it permits a member of its staff to have direct contact with a child, and annually thereafter, train the member of its staff about:*
 - (a) Concepts of trauma-informed care and how to provide services to each child according to these concepts; and*
 - (b) The impacts of the culture, race, gender and sexual orientation of each child on the behavioral health and traumatic experiences of the child.*

(The provisions of section 12 come from Minnesota Statutes 2022, 245A.25, Subdivision 3. You may want to amend them in any manner or remove them.)

Sec. 13. NAC 432B.010 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 432B.011 to 432B.017, inclusive, *and section 2 of this regulation*, have the meanings ascribed to them in those sections.

Sec. 14. NAC 432B.017 is hereby amended to read as follows:

“Foster care” means any out-of-home placement of a child. The term includes:

1. The placement of a child into:

(a) A family foster home ~~[, as that term is defined in NRS 424.013;]~~ ;

(b) A group foster home, as that term is defined in NRS 424.015; or

(c) Any other similar institution having the appropriate qualifications and facilities to provide the necessary and desirable degree and type of care to the child.

2. The placement of a child with a relative other than the relative who had a legal responsibility for providing a home for the child before the child was placed into the custody of the agency which provides child welfare services.

3. An independent living arrangement approved by the agency which provides child welfare services in accordance with NAC 432B.410, made by the agency which provides child welfare services for a child in the custody of the agency which provides child welfare services pursuant to NRS 127.050 or 432B.550, or for whom the agency which provides child welfare services is responsible pursuant to NRS 432B.360.

Sec. 15. NAC 432B.400 is hereby amended to read as follows:

1. The agency which provides child welfare services shall develop a written case plan for a child within 45 days after the date on which the child is removed from his home. The case plan:

(a) Must:

(1) If possible, be developed jointly with a parent or guardian of the child who is receiving foster care;

(2) Be developed with input from the child if the agency which provides child welfare services determines it is appropriate, based on the age and stage of development of the child; and

(3) Be developed with input from the foster parent caring for the child.

(b) Must include a plan to ensure that:

(1) The care that the child receives is safe and proper; and

(2) The parent or guardian of the child receives services to improve the condition of the home as well as to facilitate the safe return of the child to his home or another permanent placement; and

(c) Must be updated at least once every 6 months and submitted to the court with the report required by NRS 432B.580.

2. The case plan developed pursuant to subsection 1 must include:

(a) A statement addressing the long-term goals of the plan, including reunification of the child and his family, permanent placement of the child with a relative, placement of the child for adoption, placement of the child into a legal guardianship or placement of the child into another permanent living arrangement;

(b) A projected time by which these goals should be achieved;

(c) A description of the current strengths of the family and the needs which must be satisfied to achieve these goals;

(d) A description of services offered or provided to prevent removal of the child from his home and to reunify the family of the child;

(e) A description of the type of home or institution in which the child is placed;

(f) A description of the safety and appropriateness of the placement to ensure that the child receives proper care, including, without limitation, a description of the manner in which the agency will accomplish this goal;

(g) A description of the manner in which the agency will ensure that services are provided to the child and the foster parents which address the needs of the child while in foster care, including, without limitation, the appropriateness of services that have been provided pursuant to the case plan;

(h) A description, as applicable, of the programs and services which will assist a child in foster care who is 16 years of age or older prepare for the transition from foster care to independent living;

(i) If the goal of the case plan is adoption or placement in another permanent home, a description of the steps that will be taken to finalize the adoption or placement, including any steps that will be taken to recruit adoptive parents through the use of electronic or other types of state, regional and national adoption exchanges, or by other means;

(j) A description of the manner in which a placement will be made and the reasons that such a placement will be in the best interest of the child, with particular consideration given to a placement that is safe and in the least restrictive familial environment available;

(k) In addition to the factors set forth in paragraph (j), if the goal of the case plan is reunification of the child and his family, the description provided pursuant to paragraph (j) must indicate that particular consideration will be given to a placement that is in close proximity to the home of the parent of the child;

(l) If the child will be placed in a family foster home or institution for child care that is located a substantial distance from or in a different state than where the family of the child resides, a description of the reasons that such a placement will be in the best interest of the child;

(m) If a child is placed in a family foster home or institution for child care that is located in a different state than where the parents of the child reside, a description of the frequency with which a caseworker from an agency that provides child welfare services and that is located in the state in which the child is placed or the state in which the parents of the child reside will visit the foster home or institution and will submit a report to the agency that provides child welfare services in the state in which the parents of the child reside;

(n) A description of the efforts that will be made to place children who are siblings together;

(o) A plan for family visitation, including, without limitation, visiting siblings if the siblings are not residing together;

(p) A statement indicating that the proximity of the school in which the child was enrolled at the time that he was placed in foster care was considered as a factor in the selection of the placement for foster care; and

(q) The health and education records of the child to the extent those records are available, including, without limitation:

(1) The names and addresses of the providers of health care and education of the child;

(2) The grade level at which the child performs;

(3) Documentation of the immunizations that the child has had;

(4) Documentation of any known medical or psychological problems of the child;

(5) Documentation of any medications prescribed for the child; and

(6) Such other health or educational information concerning the child as the agency which provides child welfare services determines is necessary.

3. The agency which provides child welfare services shall ensure that the report described in paragraph (m) of subsection 2 is submitted to the agency located in the county in which the parents of the child reside at least once every 12 months.

4. As used in this section ~~§~~:

~~—(a) “Education records”]~~ *education records* means a report card or other report of progress and an individual education plan, if applicable.

~~—[(b) “Family foster home” has the meaning ascribed to it in NRS 424.013.]~~

Please consider whether a QRTP should be included in the definition of “residential institution” in NAC 432B.330 so that the provisions of NAC 432B.330 to 432B.370, inclusive, apply to QRTPs.