# MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

**CHILDREN’S SERVICES AGENCY**

DIVISION OF CHILD WELFARE LICENSING

FOSTER FAMILY HOMES

AND

FOSTER FAMILY GROUP HOMES

These rules become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the ~~Michigan D~~**d**epartment of **health and** ~~H~~**h**uman ~~S~~**s**ervices by sections 2, 5, 10, and 14 of 1973 PA 116, ~~and the Executive Reorganization Orders No. 1996-1, No. 1996-2, 2003-1 and 2004-4~~, MCL 722.112, 722.115, 722.120, 722.124, ~~330.3101, 445.2001, 445.2011 and 400.226~~ and Executive **Reorganization Order No. 2015-1, MCL 400.227**~~.of the Michigan Compiled Laws~~)

R 400.9207 and R 400.9307 of the Michigan Administrative Code are rescinded, and R 400.9101, R 400.9102, R 400.9201, R 400.9202, R 400.9203, R 400.9204, R 400.9205, R 400.9206, R 400.9301, R 400.9302, R 400.9303, R 400.9305, R 400.9306, R 400.9308, R 400.9309, R 400.9310, R 400.9401, R 400.9402, R 400.9403, R 400.9404, R 400.9405, R 400.9406, R 400.9407, R 400.9408, R 400.9409, R 400.9410, R 400.9411, R 400.9412, R 400.9413, R 400.9414, R 400.9415, R 400.9416, R 400.9417, R 400.9419, R 400.9420, R 400.9501, R 400.9502, R 400.9503, R 400.9505, and R 400.9506 are amended**,** as follows:

# PART 1. GENERAL PROVISIONS

R 400.9101 Definitions**.**

Rule 101. **(1)** As used in these rules**:**

(a) "Act" means 1973 PA 116, ~~as amended~~, ~~being~~ MCL 722.111 to 722.128.

(b) "Agency" means the child placing agency that certifies the foster home for licensure by the department.

(c) “Corporal punishment” means hitting, paddling, shaking, slapping, spanking, or any other use of physical force as a means of **discipline, punishment, or** behavior management**.**~~, except as provided in R 400.9404(2).~~

(d) "Department" means the Michigan department of **health and** human services.

~~(e) “Family member” means foster parents, foster children, and members of the household.~~

(~~f~~**e**)"Foster care" means ~~the care, training, protection, and supervision of a foster child.~~ **a child's placement outside the child's parental home by and under the supervision of a child placing agency, the court, or the department. Foster care does not include the delegation of a parent's or guardian's powers regarding care, custody, or property of a child or ward under a properly executed power of attorney under the safe families for children act, 2018 PA 434, MCL 722.1551 to 722.1567.**

(~~g~~**f**)"Foster child" means a person who meets both of the following criteria:

(i) Resides in an out-of-home placement based on a court order or is temporarily placed by a parent or guardian for a limited time in a foster home as defined by the act or has been released by a parent to the department or a child placing agency pursuant to section 22 of **the probate code of 1939,** 1939 PA 288, MCL 710.22.

(ii) Is either of the following:

(A) Placed with or committed to the department for care and supervision by a court order under section 2 of chapter XIIA of **the probate code of 1939,** 1939 PA 288, MCL 712A.2.

(B) Is ~~eighteen~~ **18** years of age or older, was in foster care prior to turning ~~eighteen~~**18**, and agrees to remain in care following termination of court jurisdiction.

~~(h) “Foster home" means a foster family home or foster family group home as defined in section 1 of the act.~~

(~~i~~**g**) **“**Foster parent" means the person or persons, **including tribal members**, to whom a foster home license is issued.

**(h)** **“Gender” or “gender identity” means a person’s internal identification or self-image as a man, boy, woman, girl, or another gender identity.**

**(i) “Gender expression”** **means how a person publicly expresses or presents their gender, which may include behavior and outward appearance such as dress, hair, make-up, body language, and voice. Components of gender expression may or may not align with gender identity.**

(j) "Infant" means a child between birth and ~~12 months of age~~ **the date of the child’s first birthday.**

~~(k)~~~~"Member of the household" means any person, other than foster children, who resides in a foster home on an ongoing or recurrent basis.~~

~~(l)~~ ~~“Substantial noncompliance” means repeated violation of the act or an administrative rule promulgated under the act, or noncompliance with the act, a rule promulgated under the act, or the terms of a license that jeopardizes the health, safety, care, treatment, maintenance, or supervision of individuals receiving services or, in the case of an applicant, individuals who may receive services~~.

~~(m) "Substitute care" means care that is provided to a foster child when the foster parent is not present or not available~~.

(~~n)“Willful noncompliance” means, after receiving a copy of the act, the rules promulgated under the act, and a copy of the terms of the license if applicable, an applicant or licensee knows or had reason to know that his or her conduct is a violation of the act, the rules promulgated under the act, or the terms of the license~~.

**(k) “Sexual orientation” means a person's identity in relation to the gender or genders to which they are attracted.**

**(l) “Social services worker” means a person who performs social service functions prescribed by these rules.**

**(m) “SOGIE” means an individual’s sexual, orientation, gender, identity, and expression.**

**(2)** **A term defined in the act has the same meaning when used in these rules.**

R 400.9102 Rule variance.

Rule 102. (1) The department may grant a variance from an administrative rule if all ~~of~~ the following provisions are satisfied:

(a) The agency and the foster parent have reviewed and agreed with the request.

(b) The agency requests the variance, in writing, from the department.

(c) The proposed variance from the rule ~~assures~~ **ensures** that the health, care, safety, protection, and supervision of a foster child are maintained.

(2) The decision of the department, including the conditions for which the variance is granted, ~~shall~~ **must** be entered upon the records of the department and a signed copy ~~shall~~ ~~be~~ sent to the agency and the foster parent. The variance may be time-limited or may remain in effect as long as the foster parent continues to ~~assure~~ **ensure** that the health, care, safety, protection, and supervision of foster children are maintained.

# PART 2. APPLICATION AND LICENSING

R 400.9201 Foster home applicant /licensee qualifications; **central registry check**.

Rule 201. **(1)** A foster home applicant or licensee ~~shall~~ **must** meet all ~~of~~ the following qualifications:

(a) Be 18 years of age or older.

~~(b) Be of good moral character.~~

**(b) Be willing and can demonstrate the ability to meet the following requirements for children who are served by the agency:**

**(i) How to provide care.**

**(ii) Understanding the care needed and the ability to meet those care needs.**

**(iii) Has adequate time to provide care and supervision.**

**(iv) Work with a foster child’s current and future family.**

**(v)** **Willingness to accept a child’s spirituality, or religious beliefs or practices, even if they are different from the foster parent.**

(**vi)** **Willingness to accept and support a child’s SOGIE.**

~~(c) Express a willingness to provide care for children who are served by the agency.~~

~~(d) Demonstrate an understanding of the care which must be provided to the children served by the agency~~.

~~(e) Express a willingness to learn how to provide care to children served by the agency.~~

~~(f) Have adequate time to provide care and supervision for the children.~~

(~~g~~**c**) Have a ~~defined legal~~ source of income **or resources** ~~and be capable of managing that income,~~ to meet the needs of the foster family.

(~~h~~**d**) ~~Be of such~~ **Have the** physical, mental, and emotional health to ~~assure~~ **ensure** appropriate care of children.

~~(i) Express a willingness, and demonstrate the ability, to~~ ~~work with a foster child's family or future family.~~

(~~j~~**e)** Be of responsible character and be suitable and able to meet the needs of children and provide for their care, supervision, and protection.

~~(k) Demonstrate a willingness and ability to comply with the licensing rules for foster homes.~~

(~~l~~**f**) Be residing in the United States legally.

**(2) In addition to the qualifications in subrule (1), an applicant may also live on a reservation or may be a confirmed member of a federally recognized Indian tribe.**

**(3) If an applicant is identified on the state central registry as a perpetrator of child abuse or neglect in this state, any other state, a Canadian province, or as part of a tribe, the applicant may not be licensed.**

R 400.9202 Member of household qualifications; **central registry.**

Rule 202. ~~(1)~~ ~~To assure the safety and welfare of a foster child,~~ ~~a member of the household shall meet all of the following qualifications:~~

~~(a)~~ ~~Be of good moral character and suitable to assure the welfare of children.~~

~~(b) Be in a state of physical, mental, and emotional health that will not impair the care of a foster child.~~

~~(c)~~ ~~Be willing to accept a foster child into the foster home as a member of the household~~.

~~(d) Be residing in the United States legally.~~

~~(2)~~ ~~Any adult member of the household who provides care for foster children shall also meet the qualifications specified in R 400.9201~~. **If an adult member of the household is identified on the central registry as a perpetrator of child abuse or neglect in this state, any other state, a Canadian province, or as part of a tribe, the applicant may not be licensed.**

R 400.9203 Orientation.

Rule 203. Before completing and submitting an application for an original license or transferring a license to another certifying agency, each applicant**/**licensee for a foster home license ~~shall~~ **must** attend orientation pursuant to R 400.12307.

R 400.9204 Application submission.

Rule 204. (1) A foster home applicant ~~shall~~ **must** complete, ~~sign,~~ **acknowledge,** and submit an application. ~~within 30 days of receiving an application. If an application is not submitted within 30 days of receipt, the application shall be considered withdrawn~~.

(2) In a ~~2~~ **multiple**-caregiver household, ~~both caregivers~~ **all applicants** ~~shall~~ **must** ~~sign~~ **acknowledge** the application.

(3) **An agency may consider an application withdrawn after 60 days if the applicant fails to cooperate, after attempts to actively engage the family, with the completion of the licensing process~~.~~, provided there are no known non-compliances that would result in disciplinary action.**

R 400.9205 **Criminal history; central registry** ~~Records~~ ~~check~~; **“good moral character;”**

**convictions**.

Rule 205. (1) A foster home applicant**~~/~~ or** licensee ~~shall~~ **must** provide the agency with the name of, and a signed release **for~~,~~ a criminal history and child protective services check** to obtain any of the following information ~~about,~~ **from** each adult member of the household, including children who turn 18 years of age while living in the home:

(a) Conviction of a crime other than a minor traffic violation.

(b) Involvement in substantiated abuse or neglect of a child or adult**.**

(c) Placement on court-supervised parole or probation.

**(2) If an applicant, licensee, or adult member of the household identifies as a member of a federally recognized Indian tribe or identifies that they have lived on a reservation, the certifying child placing agency must contact the specific tribal jurisdiction, including tribal social services or the tribal court, to determine whether that jurisdiction has relevant background information to provide to the department regarding the licensing approval. The department may proceed with the licensing application process using all other factors for licensing approval of the home if there is no tribal response.**

**(3) A foster home applicant or licensee must undergo a fingerprint-based, criminal history check.**

**(4) Any adult member of the household must undergo a state-based criminal history background check** **and, if applicable, contact with the appropriate jurisdiction as referenced in subrule (2) of this rule.**

**(5) A license may not be issued or maintained by an applicant or licensee unless the department has made a determination under section 2 of 1974 PA 381, MCL 338.42, regarding the applicant, licensee’s, adult member of the household’s “good moral character” and convictions.**

(~~2~~**6**) ~~By the next working day after another adult moves into a currently licensed foster home, or upon the request of the agency, a foster parent shall provide the agency with the name of the adult and a signed release to obtain the information required in subrule (1) of this rule~~. **A foster parent must provide the agency with the name of any adult who moves into a licensed foster home within 3 working days, or upon the agency’s request. A release must be signed by the adult to obtain the information required in subrule (1) of this rule.**

(~~3) If an applicant, licensee, or adult household member is identified on central registry as a perpetrator of child abuse or neglect in this state or any other state or Canadian province, he or she shall not be licensed or reside in a licensed foster home.~~

R 400.9206 Foster home evaluation.

Rule 206. A foster home applicant**/**licensee ~~shall~~ **must** do all ~~of~~ the following:

(a) Allow the agency access to the foster home and any other buildings located on the premises for licensing and foster child supervision purposes.

(b) ~~Truthfully assist the agency in determining all of~~  **Provide accurate and truthful information on an ongoing basis regarding** the following:

(i) **The applicant or licensee’s** ~~Marital and~~ family **and marital** status and history, including **the** current and ~~past~~ **previous** level of family functioning and relationships**,** and any **current and previous** incidents of domestic violence**,** **elder abuse,** or **child** abuse, either as a perpetrator or victim.

(ii) The circumstances surrounding any criminal convictions or arrests for each member of the household, including minor children.

~~(iii) Educational history and any special skills and interests~~.

~~(iv) Employment history, current financial status, including property and income, money management skills, and outstanding financial obligations.~~

(~~v~~**iii**) **Current or past** ~~P~~physical, mental, and emotional health of each member of the household, **including substance use, abuse, or treatment.**

~~(vi) Any history of substance abuse, including alcohol, drugs or controlled substances, by each member of the household and a description of any treatment received.~~

(~~vii) Current substance use, including alcohol, drugs, or controlled substances, by each member of the household and a description of any treatment being received.~~

(**iv**) Parenting skills and ~~attitudes~~ ~~toward~~ **strategies for building healthy relationships** **with** children.

(~~ix~~**v**) Methods of discipline of children.

(~~x~~**vi**) Adjustment and special needs of the applicant’s own children, including children not living in the home.

~~(xi) Strengths and weaknesses of each member of the household~~.

~~(xii) Experiences with own parents and any history of out-of-home care.~~

~~(xiii) Family’s perception of the purpose of foster care~~.

~~(xiv) Reason for applying to be a foster family.~~

(~~xv~~**vii**) Previous licenses or experience in providing child foster care, child day care, or adult foster care.

~~(xvi) Willingness of each member of the household to accept a foster child with the child's individual characteristics, needs, and background.~~

~~(xvii) Willingness to parent cross-racially or cross-culturally and to create an atmosphere that fosters the racial identity and culture of a foster child.~~

~~(xviii) Willingness and ability to give a foster child guidance, love, and affection and accept the child as a member of the household.~~

~~(xix) Willingness and ability to work with a foster child’s birth family and to understand the foster child's attachment to the birth family.~~

~~(xx) Understanding of and willingness to participate in concurrent planning.~~

(~~xxi~~**viii**) Existence of a social support system including alternate care providers.

~~(xxii) Spirituality or religious beliefs.~~

(~~xxiii~~ **~~i~~x**) ~~Safety and maintenance of the applicant’s house and property, including but not limited to: sufficient beds and sleeping space, pets, guns and other weapons, and water hazards.~~ **Willingness to accept a child’s spirituality, or religious beliefs or practices, even if they are different from the foster parent.**

**(x)** **Willingness to accept and support a child’s** **SOGIE.**

(**xi**) Safety and maintenance of the applicant’s house and property, including**,** but not limited to**,**~~:~~ sufficient beds and sleeping space, pets, ~~guns~~ **firearms** and other weapons, and water hazards.

~~(xxiv) Assessment of the neighborhood, schools, community, and available resources.~~

(~~xxv~~**xii**) The age, number, ~~gender,~~ **SOGIE,** race, ethnic background, and special characteristics of children preferred by the applicants, **including those characteristics that an applicant or licensee would not accept.**

(c) Provide the agency with all ~~of~~ the following:

(i) Three current references **related or non-related to the applicant or licensee.** ~~from persons not related to the applicants~~.

~~(ii) A medical history that includes all treatments and all prescriptions used by each member of the household~~.

**(ii) Verification of completed pre-licensure training for each person listed on the license as outlined in R 400.12312(2) and (3).**

(iii) A medical statement that includes all treatments**,** ~~and all~~ prescriptions**,** and medications ~~being used~~ ~~by~~ **for** each member of the household that indicates ~~that~~ the member has no known condition which would affect the care of a foster child. The statement ~~shall~~ **must** be signed by a physician, physician~~'s~~ assistant, or nurse practitioner within the 12-month period ~~before licensure~~ **preceding the date of the initial evaluation**. **Any subsequent household member added to the household must provide the medical statement within 90 days.**

(iv) ~~A statement~~ **Information** regarding any past ~~and/~~or current mental health treatment ~~or counseling~~ by any member of the household.

R 400.9207 ~~Foster home reevaluations and special evaluations.~~ **Rescinded.**

~~Rule 207. A foster parent shall do all of the following:~~

~~(a) Allow the agency access to the foster home for licensing and foster child supervision purposes.~~

~~(b) On an ongoing basis, provide all changes to the factual information contained in the initial evaluation and subsequent evaluations.~~

~~(c) Share information on family functioning and interrelationships.~~

~~(d) Provide a preference for receiving children in placement, including the characteristics, age, sex, race, ethnic background, and number of children the foster parents would not wish to accept in placement.~~

PART 3. THE FOSTER HOME

R 400.9301 Maintenance.

Rule 301. (1) A foster parent shall ensure ~~that~~ the **home, grounds, and** **all** ~~property,~~ structure~~,~~**s on the grounds of the property are maintained in a clean, safe, and sanitary condition, and in a reasonable state of repair within community standards.** ~~premises, and furnishings of a foster home are constructed and maintained in a clean and safe condition and in good repair~~**.**

~~(2) A foster parent shall ensure that the property, structures, premises, and furnishings are adequately constructed and maintained to meet the needs of each foster child and each member of the household.~~

(~~3~~**2**) A foster parent shall ensure that all animals are safe to be around members of the household and ~~the~~ children who may be placed in the home. ~~The foster parent shall notify the agency within 3 business days when new pets are acquired~~. Animals ~~shall~~ **must** be ~~licensed~~ ~~and~~ vaccinated in accordance with the **state, tribal, and local** laws ~~of the municipality~~ where the foster home is located.

~~(4) Before using a residential pool, spa, or hot tub, the foster parent shall ensure that the water is clean, safe, and sanitary.~~

(~~5~~**3**) Children must be ~~adequately~~ supervised ~~at all times~~ ~~around~~ **during** any water activity **as appropriate for their age and functioning level.**

**(4) Swimming pools on the premises must meet all the following:**

**(a) State, tribal, and local safety requirements.**

**(b) Availability of rescue equipment at all times.**

**(c) A working pump and filtering system if the swimming pool cannot be emptied after each use.**

**(d) A swimming pool that cannot be emptied after each use must have a barrier on all sides and access through the barrier must be equipped with a safety device. For more information, access “Safety Barrier Guidelines for Residential Pools” on the U.S. Consumer Product Safety Commission website.**

~~(6) If there is a residential pool, spa, hot tub, pond, or other body of water on the premises, rescue equipment shall be available at all times. There shall be an alarm on any exterior door that leads directly to the pool, spa, hot tub, pond, or other body of water.~~

**(5) Spas or hot tubs must have safety covers that are locked when not in use.**

**(6) There must be an alarm on any exterior door that leads directly to a pond or other body of water****, and water rescue equipment must be available at all times.**

R 400.9302 Heat, light, and ventilation.

Rule 302. (1) A foster parent shall ensure that the foster home heat, light, and ventilation is adequate.

(2) A foster parent shall ensure that the foster home windows and doors are screened if used for ventilation. **This subrule does not apply to those homes where windows or doors, or both, are not used for ventilation.**

R 400.9303 Flame and heat-producing equipment; maintenance~~; inspection~~.

Rule 303. (1) A foster parent shall ensure that all ~~of~~ the following items are maintained in safe condition:

(a) Furnace.

(b) Water heater.

(c) Fireplace.

(d) Pipes.

(e) Radiators.

(f) Wood-burning stoves.

(g) Other flame-producing or heat-producing equipment.

(2) Portable heating devices ~~may be used for up and awake activity,~~ **may not be used** ~~except~~ in bedrooms.

R 400.9305 Bathrooms; water supply; sewage disposal.

Rule 305. ~~(1)~~ A foster parent shall ensure ~~that~~ **the** foster home **has or complies with all the following:**

**(a) A**~~a~~ minimum of 1 flush toilet, 1 ~~washbasin~~ **sink** that has ~~warm and cold~~ running water, and 1 bathtub or shower that has ~~warm and cold~~ running water, all of which ~~shall~~ **must** be in working order.

(~~2~~**b**) ~~A foster parent shall ensure that~~ **T**~~t~~he temperature of water available from outlets accessible to a foster child ~~shall~~ **may** not exceed 120 degrees Fahrenheit.

(~~3~~**c**) ~~A foster parent shall ensure that~~ **T**~~t~~he foster home ~~that provides care to a foster child, who regularly requires the use of a wheelchair,~~ has bathroom facilities that are readily accessible to the foster child **who regularly requires the use of a wheelchair, walker, or any other durable medical equipment**.

(~~4~~**d**) ~~A foster parent shall ensure that~~ **T**~~t~~he foster home water supply is from a source that is approved for a private home by the health authority.

(~~5~~**e**) ~~A foster parent shall ensure that~~ **A**~~a~~ll sewage is disposed of through a public system or, in the absence of a public system, in a manner that is approved for a private home by the health authority.

R 400.9306 Bedrooms.

Rule 306. (1) A foster parent shall ensure that bedrooms comply with all ~~of~~ the following provisions:

(a) Provide an adequate opportunity for both rest and privacy and access to adult supervision as appropriate for the age and functioning level of each child. **The use of video cameras** **in a bedroom of any foster child over the age of 2 is strictly prohibited.**

(~~b) Have not less than 40 square feet of floor space per person, excluding closets.~~

(~~c~~**b**) ~~Have sufficient space for the storage of clothing and personal belongings.~~ **Have sufficient space for all the following:**

**(i) Occupants.**

**(ii) Beds with adequate head clearance for each child.**

**(iii) Space to store clothing and personal belongings.**

**(iv) A clear path to the bed, belongings, and the door.**

(~~d~~**c**) Have ~~a finished ceiling,~~ floor-to-ceiling permanently affixed walls, and ~~finished flooring.~~ **~~Have~~ painted or sealed surfaces, privacy barriers, and hazard-free flooring.**

(~~e~~**d**) Have a latchable door that leads directly to a means of egress. As used in this rule, latchable means that the door can be closed and will remain closed until someone opens it. Latchable does not mean lockable.

(~~f~~**e**) Have at least 1 outside window that complies with all ~~of~~ the following: ~~provisions:~~

(i) Is accessible to ~~children and caregivers~~ **the room’s occupant or occupants**.

(ii) Can be readily opened from the inside of the room.

(iii) Is of sufficient size and design to allow for the evacuation of ~~children and caregivers~~ **the room’s occupant or occupants.**

**(f) If a family member occupies or uses a level of a home that is above the second floor, then the building must have 2 exits to ground level, at least 1 of which must provide a direct means of egress to the outside at ground level.**

(g) **The bedroom must** ~~B~~**b**e free **from** of all ~~of~~ the following:

(i) ~~Household heating equipment~~ **Furnace.**

(ii) Water heater.

(iii) ~~Clothes washer~~**~~.~~  Portable heating devices.**

~~(iv) Clothes dryer.-~~

(2) ~~A foster parent shall not use as a bedroom a room that is primarily used for purposes other than sleeping. A foster parent shall not use any of the following as a bedroom~~ **A room that is primarily used for purposes other than sleeping may not be used as a bedroom, and includes the following:**

(a) A hall.

(b) A closet.

(c) A stairway.

(d) A garage.

(e) A shed.

(f) A detached building.

(g) A room or space, including an attic, that is accessible only by a ladder, folding stairway, or through a trapdoor.

**(h) A common area of the home**.

(~~2~~**3**) A foster parent shall ensure that ~~all~~ bedding and sleeping equipment comply with **all** ~~the~~ **following**:

(a) **The** standards set forth in the U.S. Consumer Product Safety Commission, Safety Standards for Full Size Baby Cribs and Non-Full Size Baby Cribs; Final Rule, 16 CFR parts 1219, 1220, and 1500, (http://www.cpsc.gov) for the age of the child using the equipment. ~~and also comply with all of the following conditions:~~

(~~a~~**b**) **Pillows, linens, and mattresses must be clean, safe, age appropriate, and in good repair.** ~~All blankets shall be appropriate for the weather.~~

~~(b) All bedding and equipment shall be in good repair and cleaned and sanitized before being used by another person.~~

~~(c) All bedding used by children shall be washed when soiled or weekly at a minimum.~~

~~(d) A clean pillow is available for children 2 years of age and older.~~

(~~e~~**c**) Infants, birth to 12 months of age, ~~shall~~ **must** rest or sleep alone **only** in a crib, **bassinet, or Pack ‘n Play, based on the age, size,** ~~that meets the~~ **and** needs of the infant. ~~and the conditions of subdivision (f) of this subrule.~~

~~(f)~~ ~~All cribs shall be equipped with all of the following:~~

~~(i) A firm, tight-fitting mattress with a waterproof, washable covering.~~

~~(ii) No loose, missing, or broken hardware or slats.~~

~~(iii) Not more than 2 3/8 inches between the slats.~~

~~(iv) No corner posts over 1/16 inches high.~~

~~(v) No cutout designs in the headboard or footboard.~~

~~(vi) A tightly fitted bottom sheet shall cover the mattress with no additional padding placed between the sheet and mattress.~~

**(d)** **A foster parent must follow the department’s safe sleep practices located at** [**www.michigan.gov/dhhs**](http://www.michigan.gov/dhhs)**.**

~~(g) An infant's head shall remain uncover(g)ed during sleep.~~

(~~h~~**e**) ~~Soft objects, bumper pads, stuffed toys, blankets, quilts or comforters, and other objects that could smother a child~~ **Objects may not be placed or draped over a crib, bassinet, or Pack ‘n Play and an infant’s head may not be covered during sleep.** ~~with or under a resting or sleeping infant.~~

~~(i) Blankets shall not be draped over cribs.~~

~~(j) Infant car seats, infant seats, infant swings, bassinets, highchairs, playpens, pack'n plays, collapsible cribs, collapsible playyards, waterbeds, adult beds, soft mattresses, sofas, beanbags or other soft surfaces are not approved sleeping equipment for children 24 months of age or younger.~~

~~(k) Children 24 months or younger who fall asleep in a space that is not approved for sleeping shall be moved to approved sleeping equipment appropriate for their size and age.~~

(~~l~~**f**) The foster parent ~~shall~~ **must** have the appropriate ~~number and types of beds/cribs~~ **sleeping equipment** available in the home prior to licensure or a change in terms for all children who will be covered under the terms of the license.

R 400.9307 ~~Exits~~. **Rescinded.**

~~Rule 307.~~ ~~(1) A foster parent shall ensure that there are 2 exits from each floor level used by a family member. A foster parent shall ensure that the exits are remote from each other and that 1 of the exits provides a direct, safe means of unobstructed travel to the outside at street or ground level.-~~

~~(2) A window may be used as a second exit if it is in compliance with all of the following provisions:~~

~~(a) Is accessible to children and caregivers .~~

~~(b) Can be readily opened from the inside of the room.~~

~~(c) Is of sufficient a size and design to allow for the evacuation of children and caregivers.~~

~~(3)~~ ~~If a family member occupies uses a level of a home that is above the second floor, then the building shall have 2 stairways to ground level, at least 1 of which shall provide a direct means of egress to the outside at ground level.~~

R 400.9308 Telephone.

Rule 308. (1) A foster parent shall ensure that a working telephone is available in the foster home ~~at all times~~ **or in close walking proximity to the foster home.**

(2) A foster parent shall ensure that emergency telephone numbers, **including Poison Control**, ~~which follow appropriate agency protocol~~ are ~~within sight of the telephone~~ **are posted in a prominent place in the home.**

(3) The foster parent ~~shall~~ **must** provide the ~~home~~ telephone number to the certifying agency and ~~shall~~ inform the agency within 24 hours if the number changes**.**

R 400.9309 Wheelchair access; **other durable medical equipment**.

Rule 309. A foster parent shall ensure that a foster home that provides care to a foster child who regularly requires the use of a wheelchair, **a walker, or any other durable medical equipment, is accessible.**

R 400.9310 Smoking.

Rule 310. (1) An individual ~~shall~~ **may** not smoke any substance inside the foster home while foster children are placed in the home.

(2) An individual ~~shall~~ **may** not smoke any substance inside a vehicle while transporting foster children.

PART 4. FOSTER CARE

# R 400.9401 Child capacity; living arrangement.

# Rule 401. (1) Both of the following apply to the capacity of a foster home:

# (a) Not more than 8 children under 17 years of age, including children of the foster parents, may live in or receive foster care in a foster home at any given time.

# (b) If a foster home is concurrently licensed for child care, the total number of children under 17 years of age, including children of the foster parents, who live in or receive care in the foster home, ~~shall~~ may not exceed 12. The foster home ~~shall~~ must comply with all applicable licensing rules for both foster homes and child care homes.

# ~~(2) All of the following apply to infants:~~

# (~~a) Not more than 2 children under 1 year of age, including the children of the foster parents, may receive care in a foster home at any time.~~

# ~~(b) Children birth to 12 months of age shall sleep alone in a crib.~~

# ~~(c) An infant shall be placed on his or her back for resting and sleeping.~~

~~(d) An infant unable to roll from stomach to back, and from back to stomach, when found face down, shall be placed on his or her back.~~

~~(e) An infant who can easily turn over from his or her back to his or her stomach shall be initially placed on his or her back but allowed to adopt whatever position he or she prefers for sleep.~~

# ~~(f) For an infant who cannot rest or sleep on her/his back, the foster parent shall have written instructions, signed by a physician, detailing an alternative safe sleep position and/or other special sleeping arrangements for the infant.~~

~~(g) The foster parent shall maintain supervision and frequently monitor infants' breathing, sleep position, and bedding for possible signs of distress. Baby monitors shall not be used exclusively to comply with this subdivision.~~

**(2) All children in the home must be treated equitably, meaning each child has similar sleeping arrangements as other household members.**

**(3) Foster parent or parents must designate sleeping arrangements that are appropriate for each child’s age, SOGIE, medical and mental health needs, behavior, and history of abuse.**

(~~3~~**~~4~~**) A child who is non-ambulatory and cannot readily be carried by 1 member of the household ~~shall~~ **must** sleep in a bedroom that has a means of exiting at ground level.

(5)A child ~~shall~~ **may** not share a bedroom with a non-parent adult unless 1 of the following conditions exists:

(a) The child and adult are siblings**.** ~~of the same sex~~.

(b) The child and adult are foster siblings who were sharing the bedroom prior to 1 of them turning 18 years of age.

(c) The child has a special medical need that requires the attention of an adult during sleeping hours.

~~(6) A minor child, 3 years of age or older, shall not routinely share the same bedroom with a parent.~~

~~(7) Children of the opposite sex, any of whom are more than 5 years of age, shall not share the same bedroom.~~

(~~8~~**6**) Each child ~~shall~~ **must** sleep alone **or may share a bed with a sibling** in a bed **based on** ~~that is sufficient to meet~~ the functioning level, size, ~~length,~~ and other special needs of the child.

~~(9) Resting or sleeping areas shall have adequate lighting to allow the foster parent to assess children.~~

R 400.9402 Child placement.

Rule 402. ~~(1)~~ A foster parent shall receive a foster child for care only within the approved placement specifications **and the terms of the foster home license**. **Placement of a foster child must** **only be received** **from the agency that certified the home or from another agency with the prior approval of the agency that certified the home.**

~~(2) A foster parent shall receive a foster child for care only within the~~ ~~terms of the foster home license.~~

~~(3) A foster parent shall receive a foster child for care only~~ ~~from the agency that certified the home or from another agency with the prior approval of the agency that certified the home.~~

R 400.9403 Foster parent duties.

Rule 403. A foster parent shall carry out each of the following functions:

(a) Cooperate with and assist the agency in the agency's implementation of the service plan for children and their families.

(b) Fully disclose to the agency information concerning a foster child's progress, **strengths,** and ~~problems~~ **needs**.

(c) Provide written notification to the agency of the need for a foster child to be moved from the foster home not less than 14 calendar days before the move, except when a delay would jeopardize the foster child's care or safety or the safety of members of the foster family.

~~(d) Maintain a copy of and follow the agency's written policies and procedures for foster parents and foster care, including the policies and procedures for all of the following:~~

~~(i) Behavior management as required by R 400.12313.~~

~~(ii) Religion as required by R 400.12314.~~

~~(iii) Communication as required by R 400.12315.~~

~~(iv) Education as required by R 400.12409.~~

~~(v) Personal possessions as required by R 400.12316.~~

~~(vi) Allowance and money, as required by R 400.12317.~~

~~(vii) Clothing as required by R 400.12318.~~

~~(viii) Emergencies as required by R 400.12323.~~

~~(ix) Medical and dental care as required by R 400.12413.~~

~~(x) Substitute care as required by R 400.12319.~~

~~(xi) Supervision as required by R 400.12320.~~

~~(xii) Incidents reporting as required by R 400.12322.~~

~~(xiii) Hazardous materials as required by R 400.12321.~~

R 400.9404 Behavior management.

Rule 404. (1) A foster parent ~~shall~~ **must** follow the ~~behavior management~~ **behavioral support** plan developed for each foster child by the child's social services worker.

(2) A foster parent may use reasonable restraint **methods of physical intervention** to prevent a foster child from harming himself or herself, **or** other persons. ~~or property or to allow the child to gain control of himself or herself~~

**(**3) A foster parent ~~shall~~ **may** not **physically discipline or** use corporal punishment for any reason with a foster child **and will intervene with a child in ways that are trauma-responsive, positive, and consistent, and are based on each foster child’s needs, stage of development, and behavior. Children must always be treated with dignity, sensitivity, compassion, and respect.**

**(4)** **All the following are prohibited:**

**(a) Corporal punishment, any type of restraint, including physical, chemical, mechanical, or noxious substances; or any kind of punishment inflicted on the body.**

**(b) Confinement or seclusion in an area such as a closet or ~~locked~~ a room.**

**(c) Withholding food, clothing, rest, toilet use, or entrance to the foster home.**

**(d) Mental or emotional cruelty.**

**(e) Verbal abuse, threats, including the use of derogatory or discriminatory language, negative references to the child’s or the child’s family SOGIE, yelling at youth, ridicule, or humiliation.**

**(f) Prohibiting visits or communication with a foster child’s family.**

**(g) Denial of necessary educational, medical, ~~counseling~~ mental health, or social work services.**

R 400.9405 Religion **and spirituality**.

Rule 405. ~~A foster parent shall follow the agency's religion policy~~**~~.~~ (1) A foster parent must, at a minimum, ensure that the foster child has the opportunity to receive religious instruction and may participate or choose not to participate in religious or spiritual instruction, engage or choose not to engage in religious or spiritual practices, or attend or choose not to attend religious or spiritual services.**

**(2)** A foster child shall **may** not be required to attend religious **or spiritual** services or follow specific religious **or spiritual** doctrine.

R 400.9406 Communication.

Rule 406. A foster parent ~~shall~~ **must** comply with the agency's communication policy **and ensure that a child is able to communicate with family and friends in a manner consistent with the child’s expressed wishes, appropriate to the child’s functioning, and in accordance with the child’s treatment plan.**

R 400.9407 Education.

Rule 407. ~~A foster parent shall cooperate with the agency to implement the education or training plan for a foster child to ensure that a school-age child attends school or a training program and shall participate with the school or the training program in educational planning.~~ **(1) Within 5 school days of placement, the foster parent must enroll each child of school age, as defined by state law, into a school program.**

**(2) A foster parent must cooperate with the agency to implement the education or training plan for a foster child to ensure that a school age child attends school or a training program and will participate with the school or the training program in education planning.**

R 400.9408 Personal possessions.

Rule 408. A foster parent shall comply with ~~both~~ **all** ~~of~~ the following:

(a) ~~Assure~~ **Ensure** that a child has ~~a right to~~ ~~have~~ his or her personal possessions during placement with the foster family ~~or~~ **and** ~~to~~ ha**s**~~ve~~ them **returned** ~~stored in a safe and secure manner~~ when leaving the foster family.

**(b) Safely store a child’s personal possessions.**

(~~b~~**c**) All gifts and clothing that are purchased for the child during placement with the foster family remain the property of the foster child.

R 400.9409 Allowance and money.

Rule 409. (1) A foster parent ~~shall~~ **must apply both of the** follow**ing regarding a child’s allowance and money**: ~~the agency's policy on allowance.~~

**(a) General guidelines that provide a monetary range based on a child’s age.**

**(b) Allowance for specific youth will be determined by the social services worker and the foster parent based on the child’s age and treatment needs.**

(2) Any money earned or received directly by the child remains the property of the child.

R 400.9410 Clothing.

Rule 410. **(1) A foster parent must ensure that a foster child has the minimum required clothing specified by the agency’s policy and leaves the foster home with not less than the minimum required clothing.**

(**2**) All clothing the child has when he or she arrives at the foster home and all clothing purchased for the child while in the foster home remains the property of the foster child, **unless returned to the biological parent or parents.**

R 400.9411 Emergencies.

Rule 411. (1) A foster parent ~~shall~~ **must** **have a written emergency evacuation plan displayed in a prominent place in the home.** ~~follow agency approved written procedures for each of the following emergencies:~~

~~(a) Fire.~~

~~(b) Tornado.~~

~~(c) Serious accident or injury.~~

~~(2) A foster parent who provides care for a person who requires assistance to evacuate the home shall follow agency approved written procedures for prompt evacuation~~.

(~~3~~**2**) A foster parent ~~shall~~ **must** familiarize each member of the household, including the foster child according to the child's ability to understand and persons who provide ~~substitute~~ care **and supervision**, with the emergency and evacuation procedures.

(~~4~~**3**) ~~A foster parent shall practice emergency evacuation procedures at least 1 time every 4 months.~~ **A foster parent must maintain first aid supplies in the home.**

R 400.9412 Medical and dental care.

Rule 412. (1) A foster parent shall follow ~~and carry out~~ the health plan for a foster child as prescribed by a physician, health authority, or the agency.

(2) A foster parent shall follow agency approved protocols for medical care of a foster child who is injured or ill.

(3) A foster parent shall ensure that all medications, both prescription and nonprescription, are ~~inaccessible to children and~~ properly stored **and are accessible** **as appropriate for the age and functioning level of the child.** ~~as and unless there is an~~ ~~alternative direction from the prescribing physician.~~

(4) A foster parent shall ensure that prescription medication is given or applied as directed by a licensed physician.

R 400.9413 ~~Substitute care~~ **Supervision**.

Rule 413. ~~(1) A foster parent shall follow the agency's substitute care policy.~~

(~~2~~**1**) A foster parent shall **always** ensure ~~that appropriate care and supervision are provided for foster children at all times consistent with the child's treatment plan.~~ **an appropriate level of care and supervision for the foster child, consistent with a child’s age, level of functioning, and treatment plan.**

(~~3~~**2**) A foster parent shall identify **at least 1 adult who would care for the foster child for an extended overnight period. The identified adult must have both a central registry and a criminal history background check.** ~~primary substitute caregiver who agrees to follow the policies of the certifying agency.~~

**(3) A foster parent must notify the agency of any extended, overnight period when a foster child will be out of the home for a period exceeding 3 days.**

**(4) A foster parent must notify any foster child’s care provider of the agency’s policies relating to care and supervision and the care provider must follow the policies.**

R 400.9414 Unusual incident notification.

Rule 414. (1) A foster parent ~~shall~~ **must** immediately notify the agency **regarding any of the following:** ~~of the death of a foster child~~.

**(a) The death of a foster child.**

**(b) The removal or attempted removal of a foster child from a foster home by any person not authorized by the agency.**

**(c) The foster child is missing.**

**(d) Any illness or serious injury that results in inpatient hospitalization of a foster child.**

~~(2) A foster parent shall immediately notify the agency of the removal or attempted removal of a foster child from a foster home by any person not authorized by the agency.~~

~~(3) A foster parent shall immediately notify the agency that a foster child is missing.~~

(~~4~~**2**) A foster parent ~~shall~~ **must** notify the agency within 24 hours after the foster parent knows of any of the following:

~~(a) Any illness that results in inpatient hospitalization of a foster child~~.

(~~b~~**a**) Any ~~accident or~~ injury of a foster child that requires medical treatment by a licensed or registered health care person.

(~~c~~**b**) A foster child's involvement with law enforcement authorities.

(~~d~~**c**) Pregnancy of a foster child.

(~~e~~**d**) Incidences of child-on-child abuse.

(~~f~~**e**) Involvement with law enforcement by anyone in the home pursuant to a criminal investigation.

R 400.9415 Hazardous materials ~~and firearm storage~~.

Rule 415. (1) Federal standards for a foster family or group home include specific safety requirements for weapons, pools, hot tubs, and spas, as these pose a particular preventable danger to children.

(2) Dangerous equipment and objects, weapons, chemicals, medications, poisonous materials, cleaning supplies, and other hazardous materials that may present a risk to children placed in the foster home must be stored securely and out of the reach of children, as appropriate for the age and functioning level of the children.

(3) Unless carried in the **licensed** home **and on the licensed property** as permitted by law, firearms and ammunition must be stored as follows:

(a) Firearms must be all ~~of~~ the following:

(i) Locked in compliance with 1 of the following:

(A) By a cable-lock.

(B) By a trigger-lock.

(C) In a gun safe.

(D) A solid metal gun case.

(E) A solid wood gun case.

(ii) Unloaded.

(iii) Separate from ammunition; **however, as long as the firearm is stored in compliance with paragraph (i)(C) to (E) of this subdivision, the ammunition may be stored together with the firearm in the same locked safe or case.**

(iv) Inaccessible to children.

(b) Ammunition must be stored in a locked location and inaccessible to children.

**(c) All applicable laws regarding the possession, use, transportation, and storage of firearms and ammunition, including for hunting, still apply.**

**(d) Licensees with a CPL may possess a firearm pursuant to the law in a vehicle on the licensed property, provided it is done so in such a manner to prevent foster children from having access to it, such as being on the licensee’s person or stored in a locked container.**

**(e) Licensees may engage in hunting, range shooting, and target practice with a foster child in accordance with the reasonable and prudent parenting standard as defined in section 1 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1.**

R 400.9416 Foster parent training.

Rule 416. (1) Each licensed foster parent ~~shall~~ **must** attend training as required by the agency**’s** foster parent training plan, totaling to at least 6 ~~clock~~ hours per year.

(2) At least 1 adult member of the household ~~shall~~ **must** have training in and maintain a current certification in first aid **and cardiopulmonary resuscitation** from the American Heart Association or the American Red Cross, or other institution approved by the department.

R 400.9417 Food and nutrition.

Rule 417. ~~(1)~~ ~~A foster parent shall provide for the nutritional needs of each foster child in the foster home.~~

(~~2~~**1**) A foster parent shall provide a foster child with meals that are nutritious, well- balanced, and of sufficient quantity.

(~~3~~**2**) ~~A foster parent shall provide a special diet if a foster child has been prescribed a special diet. Only a licensed physician or other health professional under the supervision of a licensed physician may prescribe special diets~~**. A foster parent must allow the foster child to eat with other members of the family and serve a foster child the same meals as other members of the household, unless a special diet has been prescribed by a licensed physician or unless otherwise dictated by differing nutritional requirements related to the child's age, medical condition, or religious beliefs.**

~~(4) A foster parent shall allow a foster child to eat with other members of the household.~~

~~(5) A foster parent shall serve a foster child the same meals as other members of the household, unless a special diet has been prescribed or unless otherwise dictated by differing nutritional requirements related to the child's age, medical condition, or religious beliefs.~~

(~~6~~**3**) A foster parent shall ensure that refrigeration is used for perishable foods.

(~~7~~**4**) **If milk is being provided to foster children**, ~~A~~**a** foster parent ~~shall~~ **may** only serve pasteurized milk products to foster children.

R 400.9419 Recreation.

Rule 419. A foster parent ~~shall~~ **must** provide opportunities for, and encourage a foster child to participate in, a variety of indoor and outdoor recreational activities that are appropriate for the child's age and ability.

R 400.9420 Transportation.

Rule 420. (1) All transportation ~~shall~~ **must** be done in a safe, responsible manner.

(2) A foster parent shall ensure that the transportation of the foster child, foster parents, and members of the household is conducted as required by state laws regarding transportation in a motor vehicle.

PART 5. REPORTING AND RECORDKEEPING

R 400.9501 Reporting suspected child abuse or neglect.

Rule 501. (1) A foster parent who has reasonable cause to suspect ~~physical or sexual~~ abuse or neglect of a child ~~shall~~ **must** make a report immediately to the child protective services central intake unit of the department**.** ~~of~~ ~~human services.~~ ~~or a law enforcement agency.~~

(2) If the suspected ~~physical or sexual~~ abuse or neglect occurred in the foster home or to a foster child placed in the foster home, then a foster parent ~~shall~~ **must** make a report immediately to both of the following entities:

(a) The child protective services central intake unit of the department ~~of health and human services~~.

(b) The agency.

(3) The foster parent shall provide a written report as required by **section 3 of** **the child protection law,** 1975 PA 238, MCL ~~722.621 to 722.638~~ **722.623.**

R 400.9502 Reporting foster home changes.

Rule 502. A foster parent shall report to the agency any significant change**s** in the foster home by the next ~~working~~ **business** day from the time a foster parent knows of a change, including any of the following ~~changes~~:

~~(a) A change of employment status of a foster parent.~~

(~~b~~**a**) Serious illness, injury, or death of a foster parent. ~~or a member of the household.~~

(~~c~~**b**) Changes in household composition.

(~~d~~**c**) Arrests and criminal convictions of a foster parent or member of the household.

(~~e~~**d**) Court-supervised parole or probation of a foster parent or member of the household.

(~~f~~**e**) Admission to, or release from, a correctional facility, ~~a facility,~~ a hospital, or an institution for the treatment of an emotional, mental, or substance abuse problem of a foster parent or member of the household.

(~~g~~**f**) ~~Counseling~~ **Assessment**, treatment, or therapy on an outpatient basis for an emotional, mental, or substance abuse ~~problem~~ **disorder** of a foster parent or member of the household.

(~~h~~**g**) Any revocation or modification of a driver's license.

(~~i~~**h**) Any major changes or renovations to the structure of the foster home.

R 400.9503 License application filing; agency notification.

Rule 503. (1) A foster parent shall notify the agency within 5 calendar days after filing an application for an adult foster care family home license, a family child care home certificate of registration, or a group child care home license.

(2) If the foster home is licensed concurrently as an adult foster care family home or a child care group home or registered as a family child care home, the foster parent ~~shall~~ **must** notify the agency if there is a change in the terms of the adult foster care or child care license or registration.

R 400.9505 Confidentiality.

Rule 505. (1) A foster parent shall keep information ~~obtained,~~ and records ~~maintained,~~ **obtained** by the foster parent regarding a foster child and a foster child's parents and relatives confidential **under section 10(3) of the act, MCL 722.120.** ~~and shall release information only to a person authorized by the agency placing the child in the foster home.~~

(2) The requirements in subrule (1) of this rule ~~shall~~ **may** not prohibit a foster parent from communicating with ~~any person or organization that has a statutory privilege or~~  any person representing the foster parent in a**n** **administrative or judicial proceeding involving** **the foster parent in licensing, Central Registry expunction, or any civil** ~~legal~~ matter.

R 400.9506 Record management.

Rule 506. ~~(1) A foster parent shall maintain a record for each foster child in the home.~~

~~(2) The record shall contain all of the following current information:~~

~~(a) The child's name and date of birth.~~

~~(b) Any known history of abuse or neglect of the child.~~

~~(c) All known emotional and psychological problems of the child.~~

~~(d) All known behavioral problems of the child.~~

~~(e) Circumstances necessitating placement of the child.~~

~~(f) Any other known information to enable the foster parent to provide a stable, safe, and healthy environment for the foster child and the foster family.~~

~~(g) Date of placement, date of termination of placement, and reasons for termination of placement.~~

~~(h) Name, address, and telephone number, including emergency telephone number, of the agency and the agency's social service worker who is currently assigned to the child.~~

~~(i) Name, address, and telephone number of the child's physician and dentist.~~

~~(j) Written consent authorizing the foster parent to obtain routine, non-surgical medical care and to authorize emergency medical and surgical treatment.~~

~~(k) A report of the child's medical history.~~

~~(l) Dates of, and reasons for, medical treatment of the foster child.~~

~~(m) Child's behavior management and discipline plan.~~

(~~3~~**1**) A foster parent shall store and maintain ~~each~~ **all** record**s** ~~in a manner to prevent unauthorized access or return the documents to the agency~~ **received on behalf of the child**.

(~~4~~**2**) When a foster child moves from the foster home**,** all records regarding that child ~~shall~~ **must** be returned to the agency.

(~~5~~**3**) Upon closure of the foster home license, all records provided by the child placing agency ~~shall~~ **must** be returned to the agency.