

**State of Wisconsin  
Department of Children and Families**

**DCF 21, 50, 52, 54, 55, 56, 57, and 58**

**Extension of Out-of-Home Care to Children and Youth  
18 Years of Age or Over, But Under 21 Years of Age**

The Wisconsin Department of Children and Families proposes to renumber s. DCF 50.06(2), 52.22 (1) (d), 57.14(2)(a) to (g), 57.515 (1), and 58.04(4)(a) and (b); to renumber and amend ss. DCF 50.06 (3) (b) 1., 57.14(2)(intro.), 57.515, and 58.04(3)(b); to amend ss. DCF 50.06 (3) (b) 6., 52.02(2)(a) and (note), 52.03(23), 52.11(intro.), 52.12(3)(d)(note) and (8)(b), 52.21(3)(d)2.a. and (9), 52.41(1)(a)3., 52.48(1)(b), 52.56(24)(a), 52.58(2)(c), (4)(b)1. and 2., (5)(b)2.d., 52.59(2)(a) to (c), (4)(b), (5)(a), (b), (d)1. and 2., (e), (f), (i), (7)(a) and (b)1. and 2., (8)(intro.), (a), and (b), and (9)(b), 52.61(1) and (7)(a)2.c. to e., 52.62(1), (4)(b)4., 52.64(1), 55.10(4)(a)(intro.), 1., and 2.a., 56.03(12), (13), (34p), and (38), 56.09(1m)(b) and (c), 57.02 (2) and (note), 57.05(1)(c)(note), 57.13(1)(j), 57.14(4)(a)1., 57.23(2)(a)(intro.), 57.33(2), 57.38(2), 58.03(12) and (15), 58.04(4)(title), 58.065(1), 58.10(3)(a)3. and 5., and 58.12 (4); to repeal and recreate ss. DCF 52.03(22), 52.21(3)(d)(title), 1., and 2.c., 52.62(4)(b)5., 54.01(4)(b), 56.03(5), 57.04(6) and (34), 57.19(6), and 58.03(3); and to create ch. DCF 21 and ss. DCF 50.06(2)(a)(title) and 11., (2)(b), and (3)(b)1.c. and d., 52.03(2m), 52.62(4)(d) and (note), 55.10(4)(a)3. and (am), 56.03(39), 56.09(1m)(cm), 57.14 (2) (c), 57.23(2)(a)13., 57.515(2) and (note), 58.03(20), 58.04(3)(b)2., (4)(b)5., and (4)(c)5., relating to the extension of out-of-home care to children and youth 18 years of age or over, but under 21 years of age, and affecting small businesses.

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**Analysis Prepared by the Department of Children and Families**

**Statutory authority:** Sections 48.366 (4) and 938.366 (4), Stats., as affected by 2013

Wisconsin Act 334; Sections 48.67 (intro.), and 227.11 (2) (a), Stats.

**Statutes interpreted:** Sections 48.366, 48.57, 938.366, and 938.57, Stats., as affected 2013

Wisconsin Act 334; Sections 48.623, 48.66 (1) (c), and 48.975, Stats.

**Related statute or rule:** Sections 48.355 (4) (b) 4., 48.357 (6) (a) 4., 48.365 (5) (b) 4., 48.38 (5) (c) 9., 48.645, 938.355 (4) (am) 4., 938.357 (6) (a) 4., and 938.365 (5) (b) 4., Stats., as affected by 2013 Wisconsin Act 334.

**Explanation of Agency Authority**

Sections 48.366 and 938.366, Stats., as created by 2013 Wisconsin Act 334, permit a child placed in out-of-home care who is a full-time student at a secondary school or its vocational or technical equivalent and for whom an individualized education program (IEP) is in effect to continue in out-of-home care until the child is granted a high school or high school equivalency diploma or reaches 21 years of age, whichever occurs first under either an extended dispositional

order of the juvenile court or a voluntary transition-to-independent-living agreement between the child, or the child's guardian on behalf of the child, and the agency primarily responsible for providing services to the child under the dispositional order.

Sections 48.366 (4) and 938.366 (4), Stats., as created by 2013 Wisconsin Act 334, provide that the department shall promulgate rules to implement the extended out-of-home care program that include all of the following:

- Rules permitting a foster home, group home, or residential care center for children and youth to provide care for persons who agree to continue in out-of-home care under an extension of an order described in ss. 48.366 (1) and 938.366 (1) Stats., or a voluntary agreement under ss. 48.366 (3) and 938.366 (3), Stats.
- Rules setting forth the conditions under which a person who has terminated a voluntary agreement under ss. 48.366 (3) and 938.366 (3), Stats., and the agency primarily responsible for providing services under the agreement may enter into a new voluntary agreement under ss. 48.366 (3) (c) and 938.366 (3) (c), Stats.

The department administers the kinship care program under ss. 48.57 (3m) and (3n), Stats.

Section 48.975 (3m), Stats., provides that adoption assistance may be provided after the adoptee reaches the age of 18 if the adoptee is a full-time high school student.

The department administers the subsidized guardianship program under s. 48.623, Stats., and s. 48.62 (5), 2009 Stats.

Section 48.66 (1) (c), Stats., prohibits the transfer of a license issued to a child welfare entity under s. 48.66 (1) (a) and (b), Stats.

Section 48.67 (intro.), Stats., provides that the department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, child care centers, foster homes, group homes, shelter care facilities, and county departments.

Section 227.11 (2) (a), Stats., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency.

### **Summary of the Proposed Rule**

#### **DCF 21, Re-entry into Out-of-Home Care for Youth 18 years or Age or Over, But Under 21 Years of Age**

The proposed ch. DCF 21 provides conditions and procedures for youth to apply to re-enter out-of-home care and agencies to determine eligibility and supervise the youth's placement. The rule also provides appeal procedures to the agency, department, and the division of hearings and appeals if the youth's application is denied or eligibility is terminated.

### DCF 50, Adoption Assistance

42 USC 675 (8) (B) (i) requires that any extension of foster care to children over 18 years of age also apply to adoption assistance agreements that became effective after a child attained 16 years of age. The proposed rule provides that adoption assistance may continue if the adopted person turned 18 years of age or over on or after 8/1/14, but is under 21 years of age; the adopted person is a full-time student at a secondary school or its vocational or technical equivalent; there is an individualized education program under s. 115.787, Stats., in effect for the adopted person; and the adoption assistance agreement for the adopted person became effective after the adopted person attained 16 years of age. An adoptive parent is required to provide a copy of the adopted person's individualized education program under s. 115.787, Stats., before the department may determine that the adopted person is eligible for assistance. Adoption assistance may be reinstated following termination of assistance by adoptive parents when the adopted person was 18 years of age or over if the adopted person meets the requirements above.

### DCF 52, Residential Care Centers

- The provision on information that is required to be in a center's treatment program and policies regarding the population served by the center is amended to include "transitioning to independence."
- A request to amend a license to serve a resident population that is 18 years of age or over, but under 21 years of age, and is transitioning to independence, shall be on a form prescribed by the department.
- The proposed rule repeals existing provisions on amendment to a license that appear to violate s. 48.66 (1) (c), Stats. Section 48.66 (1) (c), Stats., prohibits the transfer of a license to operate a residential care center. The proposed rule repeals provisions allowing a license amendment if there is a change in the ownership of a center or a change in the address of the center. A new license application will be required in these circumstances.
- Throughout the rule, the term "child" is replaced with the term "resident" when appropriate.
- The terms "youth"; "young adults ages 18, 19, or 20"; and "young adult" are repealed throughout the rule.
- The provision on requesting an exception to a rule is amended to require the use of a form prescribed by the department.

### DCF 54, Child-Placing Agencies

The definition of "child" is repealed and recreated to be the same as the definition of "child" in the group home and foster home rules. Child-placing agencies license foster homes and place children in foster homes and group homes.

### DCF 55, Subsidized Guardianship

- 42 USC 675 (8) (B) (i) requires that any extension of foster care to children over 18 years of age also apply to subsidized guardianship agreements that became effective after the child attained 16 years of age. The proposed rule provides that subsidized guardianship payments may continue if the child turned 18 years of age on or after August 1, 2014, but is under 21 years of age; the child is a full-time student at a secondary school or its vocational or technical equivalent; there is an individualized education program under s. 115.787, Stats., in effect for the child; and the subsidized guardianship agreement for the child became effective after the child attained 16 years of age. A guardian or interim caretaker is required to provide a copy of the child's individualized education program under s. 115.787, Stats., before the agency may determine that the child is eligible for subsidized guardianship payments. Subsidized guardianship payments may be reinstated if a guardian or interim caretaker terminated the subsidized guardianship agreement when the child was 18 years of age or over and the child meets the requirements above.
- The rule clarifies an existing provision on eligibility for a child who is 18 years of age or over by adding "or the equivalent" to a requirement that the child is enrolled in and attending a secondary education program leading to a high school diploma.

### DCF 56, Foster Homes

- The definition of "residential care center" is amended to remove the terms "youth" and "young adult" to correspond with the removal of the terms from ch. DCF 52.
- In general, care and maintenance may be provided for no more than 4 children in a foster home. The proposed rule creates a new exception for the purpose of maintaining previous existing connections. A licensing agency may grant an exception to allow 7 or fewer foster children in a foster home. A licensing agency shall apply to the department exceptions panel to place 8 or more children in a foster home if necessary to allow a child or youth who was previously placed in the foster home and was on a trial reunification or a youth who is under a voluntary transition-to-independent living agreement to return to the foster home.

### DCF 57, Group Homes

- The rule currently provides that a group home must have a program statement that includes a description of the type of resident population the group home will serve. A note following this requirement lists various types of resident populations. The proposed rule adds "transitioning to independence" to that list.
- The current rule provides that a staff member in a group home must be at least 21 years old, unless the staff member is a student who is 19 or 20 years old and majoring in a human services field. The proposed rule adds the requirement that staff members other than the program director must also be at least 2 years older than the oldest resident. A staff member who is 21 years of age or over may retain employment or contract if the staff member is hired or contracted before a new resident who is 18 years of age or over is admitted to the group home.

- The proposed rule provides that a group home may admit a child 18 years of age or over, but under 21 years of age if the group home will not have more than 2 children 18 years of age or over, the group home has a license to serve a resident population that is 18 or over but under 21 and is transitioning to independence, or the group home has been granted an exception by the department to provide care and maintenance for more than 2 children who are 18 years of age or over.
- The current rule requires the development of a treatment plan for each resident and lists issues that must be included in the plan. The proposed rule adds to the list the consideration of additional requirements for the care of children who are 18 years of age or over, but under 21 years of age; full-time students at a secondary school or its vocational or technical equivalent; and have an individualized education program under s. 115.787, Stats., in effect. The proposed rule also adds children who are 18 years of age or over, but under 21 years of age, and under the placement and care responsibility of another state.
- The current rule provides that a resident who is 18 years of age or older may not share a bedroom with a resident who is under 18 years of age. The proposed rule adds the exception “unless the resident who is 18 years of age or older is continuing to share a bedroom with a resident he or she had already been sharing the bedroom with before turning 18 years of age.”
- The current rule requires that resident records be maintained by the licensee until the resident reaches the age of 19 or 7 years after the resident is discharged from the group home, whichever is later. The proposed rule changes the “age of 19” to the “age of 21.”
- The provision on requesting an exception to a rule is amended to require the use of a form prescribed by the department.
- Throughout the rule, the term “child” is replaced with the term “resident” when appropriate.

#### DCF 58, Kinship Care

- The kinship care rule is amended to provide extended out-of-home care to a person who turned 18 years of age on or after August 1, 2014, but is under 21 years of age, and is a full-time student in good academic standing at a secondary school or its vocational or technical equivalent if there is an individualized education program under s. 115.787, Stats., in effect for the person.
- A technical correction is made to the definition of “kinship care payment” to reflect the increase in the amount of a payment to \$232 per month effective January 1, 2015, under 2013 Wisconsin Act 20.
- An applicant may not be placed on a waiting list if the child for whom a payment is requested has been placed with the kinship care relative under a voluntary transition-to-independent-living agreement.

## **Summary of Factual Data and Analytical Methodologies**

The rule was developed with the assistance of the department's Out-of-Home Care Committee and the Wisconsin Youth Advisory Council.

## **Summary of Related Federal Requirements**

In general, a state can be eligible for federal funding under Title IV-E of the Social Security Act for foster care assistance if all of the following apply:

- The child was removed and placed in foster care in accordance with either of the following:
  - A voluntary placement agreement between the state agency, or any other agency acting on behalf of the state, and the parents or guardians. If the child has remained in voluntary placement for a period in excess of 180 days, a judicial determination must be made.
  - A judicial determination that:
    - The placement is in the best interests of the child.
    - Continuation in the home from which removed would be contrary to the welfare of the child and that reasonable or, in the case of an Indian child, active efforts have been made to preserve and unify the family, with the child's health and safety as the paramount concern.
- The child's placement and care are the responsibility of the state agency or any other public agency with which the state has made an agreement.
- The child has been placed in a foster home, group home, shelter care, or residential care center for children and youth.
- The child, while in the home, would have met the eligibility criteria for Aid to Families with Dependent Children as the program existed on July 16, 1996.

Under 42 USC 675 (8), the definition of "child" that applies to assistance under Title IV-E is the following:

- A. Subject to subparagraph B, an individual who has not attained 18 years of age.
- B. At the option of a State, the term shall include an individual for whom the following applies:
  - (i)
    - (I) The individual is in foster care under the responsibility of the State.
    - (II) There is an adoption assistance agreement under 42 USC 673 in effect for the individual, and the individual attained 16 years of age before the agreement became effective.
    - (III) There is a kinship guardianship assistance agreement under 42 USC 673 (d) in effect for the individual, and the individual attained 16 years of age before the agreement became effective.
  - (ii) The individual has attained 18 years of age.

- (iii) The individual has not attained 19, 20, or 21 years of age, as the State may elect.
- (iv) The individual is any of the following as the state may elect:
  - (I) Completing secondary education or a program leading to an equivalent credential.
  - (II) Enrolled in an institution which provides post-secondary or vocational education.
  - (III) Participating in a program or activity designed to promote, or remove barriers to, employment.
  - (IV) Employed for at least 80 hours per month.
  - (V) Incapable of doing any of the activities described in subclauses (I) through (IV) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

42 USC 675 (8) (B) (i) requires that any extension of foster care to children over 18 years of age also apply to adoption assistance and subsidized guardianship agreements that became effective after the child attained 16 years of age. Department of Health and Human Services, Administration for Children and Families, Children's Bureau, Program Instruction, *Guidance on the Fostering Connections to Success and Increasing Adoptions Act of 2008*, ACYF-CB-PI-10-11, July 9, 2010.

### **Comparison to Rules in Adjacent States**

Illinois, Minnesota, and Michigan elected to extend foster care to all youth allowed under 42 USC 675 (8) (B).

Iowa elected to extend foster care to age 20 for youth attending high school or obtaining their GED.

### **Effect on Small Business**

The rule will affect small businesses as defined in s. 227.114 (1), Stats.

### **Analysis Used to Determine Effect on Small Business or in Preparation of Economic Impact Analysis**

Residential care centers, group homes, and licensed child-placing agencies will be affected by the rule changes, but the effect will be minimal.

### **Agency Contact Person**

For foster care, kinship care, adoption assistance, and subsidized guardianship:

Jonelle Brom  
Section Chief, Out-of-Home Care Section  
Division of Safety and Permanence  
jonelle.brom@wisconsin.gov  
(608) 264-6933

For group homes, residential care centers, and child-placing agencies:

Mary Morse  
Child Welfare Program Specialist  
Licensing Section  
Division of Safety and Permanence  
mary.morse@wisconsin.gov  
(262) 548-8694

### **Place Where Comments are to be Submitted and Deadline for Submission**

Comments may be submitted to Elaine Pridgen, Department of Children and Families, 201 E. Washington Avenue, P.O. Box 8916, Madison, WI, 53708-8916 or [dcfpublichearing@wisconsin.gov](mailto:dcfpublichearing@wisconsin.gov). The comment deadline is October 17, 2014.



**SECTION 1. Chapter DCF 21 is created to read:**

**Chapter DCF 21**

**RE-ENTRY INTO OUT-OF-HOME CARE FOR YOUTH 18 YEARS OF AGE OR OVER, BUT UNDER 21 YEARS OF AGE**

**DCF 21.01 Purpose.** This chapter provides conditions and procedures for re-entry into out-of-home care for youth under ss. 48.366 and 938.366, Stats.

**DCF 21.02 Definitions.** In this chapter:

(1) “Administrative law judge” means an administrative hearing examiner employed by the division of hearings and appeals.

(2) “Agency” means a county department of social services under s. 46.22, Stats.; a county department of human services under s. 46.23, Stats.; the department; or the department of corrections.

(3) “Aging out” means, except as provided under ss. 48.368 and 938.368, Stats., a youth is discharged from out-of-home care due to termination of an order under s. 48.355, 48.357, 48.365, 48.427, 938.355, 938.357, or 938.365, Stats., made before the youth reaches 18 years of age that places or continues the placement of the youth in out-of-home care; termination of a voluntary transition-to-independent-living agreement; or termination of a voluntary placement agreement on the date of any of the following:

(a) The date that the youth reaches 18 years of age.

(b) The date that the youth is granted a high school or high school equivalency diploma or the date on which the child reaches 19 years of age, whichever occurs first, if the youth is a full-time student at a secondary school or its vocational or technical equivalent and is reasonably expected to complete the program before reaching 19 years of age.

(c) The date that a youth who is 18 years of age or over makes a decision to leave out-of-home care and the order is dismissed, the voluntary-transition-to-independent-living agreement is terminated, or the voluntary placement agreement is terminated.

(d) The date of termination of an order under s. 48.355, 48.357, 48.365, 48.427, 938.355, 938.357, or 938.365, Stats., that provides for termination one year or less after the date on which the order was entered.

(4) “Division of hearings and appeals” means the division of hearings and appeals within the department of administration.

(5) “Foster home” means any facility operated by a person licensed under s. 48.62 (1), Stats, and ch. DCF 56.

(6) “Group home” means a facility operated by a person licensed by the department under s. 48.625, Stats., and ch. DCF 57 to provide 24-hour care for 5 to 8 residents.

(7) “Hearing” means a de novo proceeding before an impartial administrative law judge in which the youth or the youth’s representative presents the reasons why the agency action or inaction in the youth’s case should be corrected.

(8) “Independent living-transition-to-discharge plan” means a plan for each youth exiting care on or after the age of 18 that contains provisions to ensure that basic resources are in place for the youth’s transition to adulthood, including all of the following:·

(a) The youth’s anticipated date of and age at discharge from out-of-home care.

(b) Information on how the youth will obtain and secure housing.

(c) Information on how the youth will manage health care needs.

(d) Information on whether the youth intends to continue with formal education and how the youth will attain his or her educational goals.

(e) Techniques for building relationships with supportive adults.

(f) Employment services that are available to the youth.

(g) Workforce support that is available to the youth.

(h) The continuation of necessary supportive independent living services after the youth leaves out-of-home care.

(i) Information on how the youth can obtain essential documents.

**(9)** “Out-of-home care” means care and maintenance provided to a youth in a foster home, group home, residential care center for children and youth, in the home of a relative other than a parent, or in a supervised independent living arrangement under an order under s. 48.355, 48.357, 48.365, 938.355, 938.357, or 938.365, Stats., or in the guardianship and custody of an agency specified in s. 48.427 (3m) (a) 1. to 4. or (am), Stats., under an order under s. 48.43, Stats.

**(10)** “Residential care center for children and youth” means a facility operated by a child welfare agency licensed under s. 48.60, Stats., and ch. DCF 52 for the care and maintenance of children residing in that facility.

**(11)** “Voluntary placement agreement” means a written agreement between a county department of social services under s. 46.22, Stats.; a county department of human services under s. 46.23, Stats.; the department; or a child welfare agency licensed under s. 48.60, Stats., and the child or youth’s parent or guardian and the child, if the child or youth is 12 years of age or older, for the placement of the child or youth in a foster home or group home under s. 48.63 (1), Stats.

**(12)** “Voluntary transition-to-independent-living agreement” means a voluntary agreement under s. 48.366 (3) or 938.366 (3), Stats.

**DCF 21.03 Eligibility.** (1) A youth who was discharged from out-of-home care by aging out on or after August 1, 2014, and who did not immediately enter a voluntary transition-to-independent-living agreement or by termination of a voluntary transition-to-independent-living agreement may be eligible to re-enter out-of-home care if all of the following conditions are met:

(a) The youth is 18 years of age or over but under 21 years of age.

(b) The youth is a full-time student at a secondary school or its technical or vocational equivalent.

(c) There is an individualized education program under s. 115.787, Stats., in effect for the youth.

(2) The agency shall allow a youth who meets the eligibility criteria to re-enter out-of-home care at least 2 times.

(3) The agency may use its discretion in determining whether to allow a youth who meets the eligibility criteria to re-enter out-of-home care more than 2 times.

Note: Issues the agency may want to consider include whether the youth is homeless or at imminent risk of becoming homeless, is pregnant or parenting, or has significant mental health issues. The agency may also want to consider whether the youth's last discharge from out-of-home care was pursuant to an independent living-transition-to-discharge plan that was agreed to by the youth and the agency.

**DCF 21.04 Youth's request to re-enter out-of-home-care and agency determination. (1)**

A youth who was discharged from out-of-home care by aging out on or after August 1, 2014, and who did not immediately enter a voluntary transition-to-independent-living agreement or by termination of a voluntary transition-to-independent-living agreement may submit a written

request for a determination of eligibility to re-enter out-of-home care that contains all of the following information:

(a) The youth's full name.

(b) The youth's date of birth.

(c) The youth's contact information and contact information for another person who will know where the youth is and be able to contact him or her.

(d) The agency that had placement and care responsibility for the youth when he or she last left out-of-home care.

(e) The secondary school or its technical or vocational equivalent where the youth is enrolled or an attestation by the youth that he or she does not have a high school diploma and wants to re-enroll in secondary school or its technical or vocational equivalent.

(f) The youth attests that he or she has an individualized educational program under s. 115.787, Stats., in effect.

(g) If known, contact information for a person at the youth's secondary school or its technical or vocational equivalent who is on the youth's individualized education program team under s. 115.787, Stats.

(2) If a youth requests that an agency assist the youth with writing the request for determination of eligibility, the agency shall assist the youth.

(3) A youth may submit a written request for a determination of eligibility to re-enter out-of-home care to any of the following agencies:

(a) The county department of social services under s. 46.22, Stats., or the county department of human services under s. 46.23, Stats., in the county where the youth resides.

(b) The agency that had placement and care responsibility for the youth when the youth's most recent out-of-home care placement terminated or the youth aged out.

(4) The agency that receives the youth's request for determination of eligibility shall provide the youth with a written explanation of the youth's appeal rights under s. DCF 21.08 if the application is denied or, if determined eligible, if eligibility is later terminated under s. DCF 21.07.

(5) The agency under sub. (3) (b) shall determine the youth's eligibility for re-entry to out-of-home care under s. DCF 21.03. If a youth submits a request to re-enter out-of-home care to the agency in the county where the youth resides and that agency is not the agency under sub. (3) (b), that agency shall forward the youth's request to the agency under sub. (3) (b) on the same day.

(6) Within 5 working days after receiving the youth's request, the agency under sub. (3) (b) shall make an eligibility determination and send a written notice to the youth. If the youth is not enrolled in school, the agency under sub. (3) (b) shall assist the youth with re-enrollment in school.

(7) If the agency under sub. (3) (b) is not the agency in the county where the youth resides, the agency where the youth resides shall assist the agency under sub. (3) (b) with all of the following:

(a) Verifying the youth's enrollment in a secondary school or its technical or vocational equivalent.

(b) Verifying that an individualized education program under s. 115.787, Stats., is in effect for the youth.

(c) Interviewing the youth.

(d) Obtaining signatures from the youth and, if needed, the youth's guardian.

(8) (a) If the agency under sub. (3) (b) determines that the youth is eligible under s. DCF 21.03, the agency shall enter into a voluntary transition-to-independent-living agreement with the youth within the same 5 working days that eligibility is determined under sub. (6). If the agency under sub. (3) (b) determines that the youth is not eligible, the agency shall send a written notice within 5 working days after the determination is made that specifies the reasons for the denial and informs the youth of his or her right to appeal under s. DCF 21.08.

(b) Notwithstanding par. (a), if the agency determines that the youth is eligible and makes efforts to contact the youth using the contact information provided by the youth and the youth does not respond, the agency shall enter into a new voluntary transition-to-independent-living agreement with the youth as soon as practicable.

**DCF 21.05 Voluntary transition-to-independent-living agreement.** The voluntary transition-to-independent-living agreement shall be on a form prescribed by the department and include all of the following conditions:

(1) The youth is 18 years of age or over but under 21 years of age.

(2) The youth is a full-time student at a secondary school or its technical or vocational equivalent.

(3) There is an individualized education program under s. 115.787, Stats., in effect for the youth.

(4) The youth will participate in activities assigned by the agency to prepare the youth for independent living.

(5) The youth will comply with school attendance requirements in the youth's individualized education program under s. 115.787, Stats., school district policies, and truancy laws and ordinances.

(6) The youth will not be missing from his or her out-of-home care placement for more than 2 weeks without contact with the agency.

(7) If there is any change in the youth's circumstances that affects a provision of the voluntary transition-to-independent-living agreement, the youth will notify the agency within 10 calendar days after the effective date of the change.

Note: Form DCF-F-5030-E, *Voluntary Transition-to-Independent-Living Agreement*, is available in the forms section of the department website, <http://dcf.wisconsin.gov>, or by writing to the Division of Safety and Permanence, P.O. Box 8916, Madison WI 53708-8916.

**DCF 21.06 Placement and supervision.** (1) Within 24 hours after the voluntary transition-to-independent-living agreement is signed, the agency under s. DCF 21.04 (3) (b) shall place the youth in out-of-home care or the home of a person not a relative under s. 48.207 (1) (f) or 938.207 (1) (f), Stats., or shall make other arrangements for housing for the youth. The agency under s. DCF 21.04 (3) (b) shall place the youth in a long-term out-of-home care placement within 10 days after the voluntary transition-to-independent-living agreement is signed.

(2) If the youth resides in a county other than the county where the agency under s. DCF 21.04 (3) (b) is located, the agency in the county where the youth resides shall supervise the youth jointly with the agency under s. DCF 21.04 (3) (b). The agency in the county where the youth resides shall conduct monthly face-to-face contacts with the youth and shall provide the agency under s. DCF 21.04 (3) (b) with documentation of the contacts and other updates necessary to support the care and supervision of the youth.



**DCF 21.07 Termination.** (1) The agency shall terminate a voluntary transition-to-independent-living agreement with a youth who is no longer eligible under s. DCF 21.03 or who fails to comply with the voluntary transition-to-independent-living agreement under s. DCF 21.05, except as provided in sub. (2).

(2) The agency shall not terminate the voluntary transition-to-independent-living agreement with a youth who is not in compliance with the voluntary transition-to-independent-living agreement if the noncompliance is with s. DCF 21.05 (2), (4), (5), or (6) and the youth actively participates in the development of a plan to address the concern and demonstrates a willingness to comply with the plan that is developed.

(3) To terminate a voluntary transition-to-independent-living agreement with a youth, an agency shall send the youth a notice of termination that will become effective 10 days after the date of the notice. If the agency sends the notice of termination and the youth files a timely appeal as provided in s. DCF 21.08 (1), (3), or (4), the adverse action shall be stayed and the youth shall remain eligible pending the decision of the agency, division administrator, or administrative law judge or expiration of the right to appeal under s. DCF 21.08 (1), (3), or (4).

**DCF 21.08 Appeal rights.** (1) A youth may submit a written request for an appeal of an agency denial of the youth's request to re-enter out-of-home care or an agency termination of the voluntary transition-to-independent agreement between the youth and the agency. The request shall be sent to the director of the agency or his or her designee within 10 days after the date of the agency's notice of denial or termination. If the youth does not request an appeal within 10 days after the date of the agency's notice of denial under s. DCF 21.04 (8) or termination under s. DCF 21.07 (3), the denial or termination becomes final.

(2) The director of the agency or his or her designee shall make a determination on the youth's appeal request for appeal and send a written decision no later than 3 working days after the agency received the youth's request for appeal under sub. (1).

(3) If the director of the agency or his or her designee upholds the denial or termination, the youth may submit a written request for an appeal to the administrator of the department's division of safety and permanence within 10 days after the date of the agency's written decision under sub. (2). The division administrator or his or her designee shall consider the recommendation on whether to uphold the denial or termination made by a panel designated by the director of the bureau of permanence and out-of-home care in the division of safety and permanence. The division administrator or his or her designee shall make a determination and send the written decision to the youth within 5 working days after the department received the request. If the youth does not submit a written request for an appeal to the department's division of safety and permanence within 10 days after the date of the agency's written decision under sub. (2), the denial or termination becomes final.

Note: An appeal to the division administrator may be sent by mail to the Extended Out-of-Home Care Panel, Division of Safety and Permanence, 201 E. Washington Ave., P.O. Box 8916, Madison WI, 53701 or by email to [OHCExtensionAppeal@wisconsin.gov](mailto:OHCExtensionAppeal@wisconsin.gov).

(4) (a) A youth may request a hearing with the division of hearings and appeals under ch. 227, Stats., and ch. HA 3 if the division administrator or his or her designee upholds the agency denial or termination under sub. (3).

(b) A request for a hearing shall be in writing, addressed to the division of hearings and appeals, and filed within 45 days after the date of the notice from the division administrator or his or her designee upholding the denial or termination under sub. (3). A request for a hearing

mailed to the division of hearings and appeals shall be considered filed with the division on the date of the postmark. If the youth does not request a hearing by the division of hearings and appeals within 45 days after the date of the notice from the division administrator or his or her designee upholding the denial or termination under sub. (3), the denial or termination becomes final.

Note: A hearing request should be addressed to the Division of Hearings and Appeals, 5005 W. University, Suite 201, Madison, Wisconsin 53705-5400.

**DCF 21.09 Reapplication following denial or termination.** If the youth reappplies following a denial of the youth's application to re-enter out-of-home care under s. DCF 21.04 (8) or a termination of the youth's eligibility under s. DCF 21.07, the agency may suspend processing of the application if it determines that the situation related to the rationale for the denial or termination has not changed. Within 2 working days after the agency decides to suspend processing of the application, the agency shall send the youth a written notice of its decision. The notification of suspension shall include a statement of the youth's right to appeal the decision.

**SECTION 2. DCF 50.06 (2) is renumbered DCF 50.06 (2) (a).**

**SECTION 3. DCF 50.06 (2) (a) (title), (2) (a) 11., and (2) (b) are created to read:**

**DCF 50.06 (2) (a) (title)** *Notification requirements.*

(2) (a) 11. The adopted person was determined eligible for assistance under sub. (3) (b) 1. c. and no longer has an individualized education program under 115.787, Stats., in effect.

(b) *Verification of individualized education program.* An adoptive parent shall provide a copy of the adopted person's individualized education program under s. 115.787, Stats., before

the department may determine that the adopted person is eligible for adoption assistance to continue under sub. (3) (b) 1. c.

**SECTION 4. DCF 50.06 (3) (b) 1. is renumbered DCF 50.06 (3) (b) 1. (intro.), a., and b. is amended to read:**

**DCF 50.06 (3) (b) 1. (intro.)** When the adoptee reaches 18 years of age, except ~~that eligibility for adoption~~ as follows:

a. Adoption assistance may continue ~~to age 19~~ if the adopted person is 18 years of age or over, but under 19 years of age, and is a full-time student in high school or the equivalent.

b. ~~Benefits~~ Adoption assistance may continue ~~to age 21~~ if the adopted person is 18 years of age or over, but under 21 years of age; the adopted person is a full-time student in high school or the equivalent; the department determines that the adopted person has a mental or physical handicap ~~which~~ that warrants the continuation of assistance under 42 USC 673; the adopted person is not eligible for other benefits such as supplemental security income; and the adopted person otherwise lacks adequate resources to continue in high school or the equivalent;

**SECTION 5. DCF 50.06 (3) (b) 1. c. and d. are created to read:**

**DCF 50.06 (3) (b) 1. c.** Adoption assistance may continue if the adopted person turned 18 years of age on or after August 1, 2014, but is under 21 years of age; the adopted person is a full-time student at a secondary school or its vocational or technical equivalent; there is an individualized education program under s. 115.787, Stats., in effect for the adopted person; and the adoption assistance agreement for the adopted person became effective after the adopted person attained 16 years of age.

d. Adoption assistance may be reinstated following termination of assistance by adoptive parents when the adopted person was 18 years of age or over if the adopted person meets the requirements of subd. 1. c.

**SECTION 6. DCF 50.06 (3) (b) 6. is amended to read:**

**DCF 50.06 (3) (b) 6.** When the parents are no longer legally responsible for the support of the adoptee except as provided in ~~subpar. a~~ subd. 1; or

**SECTION 7. DCF 52.02 (2) (a) and (note) are amended to read:**

**DCF 52.02 (2) (a)** The department may grant an exception to a nonstatutory requirement of this chapter if the department determines that the exception will not jeopardize the health, safety or welfare of any child ~~or young adult~~ served by the center. A request for an exception shall be made ~~in writing~~ on a form prescribed by the department. The request shall justify the exception and describe the alternative provision that meets the intent of the requirement.

**Note:** Form DCF-F-5023-E, Child Welfare Request for Exception, is available in the forms section of the department website, <http://dcf.wisconsin.gov>, or from a department field office. A request for an exception to a requirement of this chapter should be sent to the licensing representative of the ~~Department's~~ department's Division of Safety and Permanence. See Appendix D for the address of the field office for your area.

**SECTION 8. DCF 52.03 (2m) is created to read:**

**DCF 52.03 (2m)** “Child” is a person who is under 21 years of age and is under juvenile court jurisdiction or other court order, is being provided services by a child welfare or juvenile justice agency, or is placed under a contract or agreement.

**SECTION 9. DCF 52.03 (22) is repealed and recreated to read:**

**DCF 52.03 (22)** “Resident” means a child who is admitted to and resides in a residential care center for children and youth.

**SECTION 10. DCF 52.03 (23) is amended to read:**

**DCF 52.03 (23)** “Residential care center for children and youth” or “residential care center” “center” or “RCC” means a residential facility required to be licensed as a child welfare agency under s. 48.60, Stats., that provides treatment and custodial services for children, ~~youth and young adults~~ ages 18, 19 or 20 under 21 years of age.

**SECTION 11. DCF 52.11 (intro.) is amended to read:**

**DCF 52.11 (intro.)** A licensee shall protect and promote the health, safety and welfare of children, ~~youth and young adults~~ served and meet all applicable requirements under this chapter. If this chapter does not specify who should complete a task or function, the licensee shall make the necessary arrangements to achieve and maintain compliance. The licensee shall do all of the following:

**SECTION 12. DCF 52.12 (3) (d) (note) and (8) (b) are amended to read:**

**DCF 52.12 (3) (d)** Note: Refer to s. DCF 52.62 (1), General Conditions for Approval of License, with regard to the applicant or licensee being found fit and qualified to provide care to children ~~and youth.~~

**(8) (b)** A center arranging for an outside specialist or consultant to treat or advise about treating a dysfunctional behavior or condition of a resident shall notify the ~~child's~~ resident's placing person or agency in writing if the outside specialist or consultant states that the resident needs follow-along and support services. The center shall inform the placing person or agency

of specialist or consultant recommendations for the resident including the needs, types of follow-along or support services and the amount of recommended time needed for those efforts. Center staff shall document the recommendations and notification in the resident's treatment record.

**SECTION 13. DCF 52.21 (3) (d) (title) and 1. are repealed and recreated to read:**

**DCF 52.21 (3) (d) (title)** *Serving children 18 years of age or over, but under 21 years of age.*

1. The center has a license to provide care and maintenance to a resident of that age, sex, and population type.

**SECTION 14. DCF 52.21 (3) (d) 1. (note) is created to read:**

**DCF 52.21 (3) (d) 1. Note:** A current licensee may request an amendment to serve a resident population that is 18 years of age or over, but under 21 years of age, and is transitioning to independence under s. DCF 52.62 (4) (d).

**SECTION 15. DCF 52.21 (3) (d) 2. a. is amended to read:**

**DCF 52.21 (3) (d) 2. a.** Center program compatibility ~~between children and adult~~ among residents.

**SECTION 16. DCF 52.21 (3) (d) 2. c. is repealed and recreated to read:**

**DCF 52.21 (3) (d) 2. c.** Transition-to-independence planning.

**SECTION 17. DCF 52.21 (9) is amended to read:**

**DCF 52.21 (9) REGISTER.** The center shall maintain a register of all residents. The register shall contain the date of admission and resident identifying information including name, birthdate, sex, the name and address of the placing person or agency and the name and address of

a parent or guardian and legal custodian or, if the resident is ~~an adult~~ 18 years of age or over, the name and address of the lawful placing authority and the name of the resident's guardian, if applicable. If the resident is from another state, the register shall also identify the state.

**SECTION 18. DCF 52.22 (1) (d) is renumbered DCF 52.22 (1) (d) 1. and 2. and amended to read:**

**DCF 52.22 (1) (d) 1.** If a the resident is ~~a minor~~ under age 18, the resident's parents or guardian and legal custodian, if any, ~~or~~ and other persons important to the resident ~~or if the,~~

**2.** If the resident is ~~a young adult~~ 18 years of age or over, other authorities or agencies involved in the ~~young adult's~~ resident's placement ~~or;~~ the resident's guardian, if any; and, with the ~~young adult's~~ resident's consent, other persons important to the ~~young adult~~ resident.

**SECTION 19. DCF 52.41 (1) (a) 3. is amended to read:**

**DCF 52.41 (1) (a) 3.** The population served by age and sex and by type, such as developmentally disabled, emotionally disturbed, alcohol or drug abusing, transitioning to independence, juvenile delinquent or correctional aftercare, and the range or types of behaviors or conditions for which the center's treatment procedures and techniques are appropriate.

**SECTION 20. DCF 52.48 (1) (b) is amended to read:**

**DCF 52.48 (1) (b)** Furnish each resident with appropriate size clothing, appropriate to the season and comparable to that of ~~other children, youth or young adults~~ of similar age in the community, and arrange for each resident to participate in the selection and purchase of his or her own clothing to the maximum extent feasible. Each resident's clothing shall be identified as his or her own.



**SECTION 21. DCF 52.56 (24) (a) is amended to read:**

**DCF 52.56 (24) (a)** *Camping facilities.* A residential care center for children, and youth~~and young adults operating or using~~ that operates or uses camping facilities shall comply with requirements for recreational camps established under ch. DHS 175, if applicable.

**SECTION 22. DCF 52.58 (2) (c), (4) (b) 1. and 2, and (5) (b) 2. d. are amended to read:**

**DCF 52.58 (2) (c)** “Short-term treatment program” means a program of temporary residential care and treatment service delivery to a ~~child or youth~~ resident whose placement is transitional for purposes of assessment, treatment, and planning for placement back into the community. Short-term treatment program” does not include a respite care service program under s. DCF 52.59; or a crisis stabilization program certified under ch. DHS 34.

(4) (b) 1. Observe the ~~child~~ resident for evidence of ill health. A staff person capable of recognizing common signs of communicable diseases or other evidence of ill health shall make this observation. The new resident’s temperature shall also be taken and evaluated. If the new resident shows overt signs of communicable disease or other evidence of ill health, the center shall make arrangements for immediate examination by a health care practitioner.

2. Arrange for or obtain the results of a complete physical examination comparable to a HealthCheck examination for each ~~child~~ resident in accordance with the HealthCheck periodicity schedule.

(5) (b) 2. d. Arrangements for continuing educational services and other programming during the ~~youth’s~~ resident’s stay at the center.

**SECTION 23. DCF 52.59 (2) (a) to (c), (4) (b), (5) (a), (b), (d)1. and 2., (e), (f), (i), (7) (a) and (b), (8) (intro.), (a), and (b), and (9)(b) are amended to read:**

**DCF 52.59 (2) (a)** “Respite care” means temporary care for a child ~~or youth~~ with a disability or special care need, usually on behalf of a parent or regular caregiver for the purpose of providing relief to the parent or regular caregiver from the extraordinary and intensive demands of providing ongoing care for the child ~~or youth~~, but also for when a parent or regular caregiver may be at risk of abusing a child ~~or youth~~ due to stress and, therefore, requires relief from caregiver duties, or the parent or regular caregiver is in a crisis situation that can be alleviated by providing temporary relief from caregiver duties.

(b) “Respite care services episode” or “episode” means a period of time during which respite care is provided to a parent or regular caregiver by placing a child ~~or youth~~, otherwise under the parent’s or regular caregiver’s care, at a residential care center.

(c) “Respite care services program” means a center-provided program of respite care services for a child ~~or youth~~ with a disability or special need on behalf of a parent or regular caregiver and includes, for the child ~~or youth~~, individualized personal care and services at the level necessary to meet the child’s ~~or youth’s~~ immediate needs, along with room and board provided in comfortable surroundings.

**(4) (b)** Specific center assessment procedures and services available for care arrangements in assisting a child ~~or youth~~ admitted for respite care.

**(5) (a)** A policy regarding the type of respite care children ~~or youth~~ who can be served, such as those who are emotionally disturbed, physically handicapped, medically needy or developmentally disabled, including the specific types of developmental disabilities served.

(b) Procedures for screening children ~~and youth~~ referred for respite care to ensure that they are appropriate for the center’s respite care program.

(d) 1. Procedures for obtaining from the parent or other regular caregiver necessary and essential information for the temporary care of the child ~~or youth~~, which may include medical, behavioral, dietary, or emotional concerns and appropriate responses or instructions. Assessment shall cover at minimum the following areas: eating, toileting, mobility, communication, health problems, behavioral issues, socialization, supervision needs, and personal self-help.

2. Procedures for obtaining identifying information at the time of admission on the child ~~or youth~~ and his or her family and information about current special needs of the child ~~or youth~~, including usual day activities; transportation arrangements; any appointments; current health problems; special equipment used; communication issues; behavioral issues; eating habits, schedule and preferences; sleeping habits and any usual bedtime routine; toileting concerns; safety concerns; discipline or behavioral management recommendations; preferred leisure time activities; and any other comments from the parent or regular caregiver.

(e) Procedures as described under s. DCF 52.21 (7) for orienting a child ~~or youth~~ to the center's respite care program, available care staff and room arrangements, and assisting the child ~~or youth~~ in any adjustment issues to the child's ~~or youth's~~ temporary stay.

(f) Procedures for assigning specific care staff to a respite care child ~~or youth~~.

(i) Procedures for making a record of all of the child's ~~or youth's~~ personal belongings and medications upon arrival at the center.

**(7)** (a) A center shall develop a written plan of care for each child ~~or youth~~ admitted to the center for respite care.

(b) 1. The written care plan shall be prepared in consultation with the child's ~~or youth's~~ parent or other regular caregiver and prior to placement, except if the reason for placement is of a crisis emergency nature.

2. The written care plan shall provide for necessary service supports to meet social, emotional adjustment, medical, and dietary needs; physical environment accommodation; means for the respite care child or youth to contact his or her parent or other regular caregiver; accommodations to meet physical handicaps disabilites such as requiring, if needed by the child or youth, a TTY device for the hearing impaired, handrails ~~and,~~ or visual devices; and a planned variety of recreational activities. The educational needs of the child shall be attended to while in placement as prescribed by the parent or other regular caregiver.

(8) ~~For respite care residents, a~~ When a child is discharged from respite care, the residential care center shall have a respite care discharge policy that provides for both of document all of the following in the child's respite care record:

(a) ~~Documenting in the respite care resident's care record the~~ The dates of respite care the child's stay, a summary of the child's or youth's stay with any significant incidents noted, and the name of the person to whom the child or youth was discharged.

(b) ~~Giving a complete accounting in the respite care resident's care record of all~~ A list of all personal belongings, medications, and medical equipment that went with the child or youth upon discharge.

(9) (b) *Evaluation.* ~~A~~ After each respite care episode, a residential care center shall evaluate respite the care provided through a ~~center~~ survey to be completed by the parent or other regular caregiver and, if possible, the child or youth ~~after each respite care episode~~. The center shall use the survey information to improve, as necessary, its respite care services program, and shall keep these surveys on file for one year from their completion.

**SECTION 24. DCF 52.61 (1) and (7) (a) 2. c. to e. are amended to read:**

**DCF 52.61 (1)** This section is promulgated pursuant to s. 48.60 (3), Stats., to regulate the establishment of new residential care centers for children and youth and to control the expansion of existing residential care centers in order to ensure an adequate number and variety of facilities to meet the needs of Wisconsin children ~~and youth~~ who require out-of-home residential care and to prevent unnecessary expansion of residential care centers and the resulting increase in costs to Wisconsin citizens.

(7) (a) 2. c. The congruence of the conclusions reached in the applicant's needs research with department data on current county placement needs and available beds in existing residential care centers for children, and youth~~and young adults~~ providing similar services.

d. The correctness of the applicant's contention that the proposed center is more appropriate than less restrictive care arrangements for children, ~~youth and young adults~~.

e. The applicant's documentation supporting the argument that existing Wisconsin residential care centers for children, and youth~~and young adults~~ are not adequate to meet the needs of Wisconsin children, ~~youth and young adults~~ who require the type or types of care and treatment services the applicant proposes to provide.

**SECTION 25. DCF 52.62 (1) and (4) (b) 4. are amended to read:**

**DCF 52.62 (1)** An applicant for a license under this chapter shall complete all application forms truthfully and accurately and pay all fees and forfeitures due and owing prior to receiving a license. The department shall issue a residential care center license to an applicant within 60 days based upon receipt and department approval of a properly completed application, ~~satisfactory~~ and a department investigation and determination that the applicant is fit and qualified. Continued licensure requires a licensee to remain fit and qualified. In determining

whether an applicant is fit and qualified, the department shall consider any history of civil or criminal violation of statutes or regulations of the United States, this state, or any other state or other offenses substantially related to the care of children, ~~youth~~ or adults by the applicant, owner, manager, representative, employee, center resident, or other individual directly or indirectly participating in the operation of the residential care center. This includes substantiated findings by a county social services or human services department of child abuse or neglect under s. 48.981, Stats., or substantiated reports of abuse of residents or patients under ch. 50, Stats., whether or not it results in criminal charges or convictions.

**(4) (b) 4.** A change in the name ~~or address~~ of the center.

**SECTION 26. DCF 52.62 (4) (b) 5. is repealed and recreated to read:**

**DCF 52.62 (4) (b) 5.** The licensee's name changes.

**SECTION 27. DCF 52.62 (4) (d) and (note) are created to read:**

**DCF 52.62 (4) (d)** A request to amend a license to serve a resident population that is 18 years of age and over, but under 21 years of age, and is transitioning to independence shall be on a form prescribed by the department.

**Note:** Form DCF-F-5081-E, *Amendment Request to Extend Care to Residents 18 Years of Age or Over, But Under 21 Years of Age*, is available in the forms section of the department's website, <http://dcf.wisconsin.gov>, or from a department field office. See Appendix D for the address of the field office for your area.

**SECTION 28. DCF 52.64 (1) is amended to read:**

**DCF 52.64 Rate determination. (1)** The department shall determine the maximum per client rate that each residential care center program may charge for costs associated with room, board,

administration, service provision, and oversight of ~~youth~~ residents in the residential care center program based on the following:

**SECTION 29. DCF 54.01 (4) (b) is repealed and recreated to read:**

**DCF 54.01 (4) (b)** “Child” means a person who is under 21 years of age and is under juvenile court jurisdiction or other court order, is being provided services by a child welfare agency, or is placed under an agreement.

**SECTION 30. DCF 55.10 (4) (a) (intro.), 1., and 2. a. are amended to read:**

**DCF 55.10 (4) (a)** A Notwithstanding s. DCF 55.02 (3), a guardian and a child who is 18 years of age or older may be eligible to continue to receive monthly subsidized guardianship payments if no change affecting eligibility under sub. (1) has occurred and subd. 1., ~~2.~~, or 3. applies:

1. The child is 18 years old and is enrolled in and regularly attending a secondary education classroom program leading to a high school diploma or the equivalent.

2. a. The child is enrolled in and regularly attending a secondary education classroom program leading to a high school diploma or the equivalent.

**SECTION 31. DCF 55.10 (4) (a) 3. and (am) are created to read:**

**DCF 55.10 (4) (a) 3.** All of the following apply regarding the child:

a. The child turned 18 years of age on or after August 1, 2014, but is under 21 years of age.

b. The child is a full-time student at a secondary school or its vocational or technical equivalent.

c. There is an individualized education program under s. 115.787, Stats., in effect for the child, and the guardian or interim caretaker submits a copy to the agency.

d. The subsidized guardianship agreement for the child became effective after the child attained 16 years of age.

(am) Subsidized guardianship payments may be reinstated if a guardian or interim caretaker terminated the subsidized guardianship agreement when the child was 18 years of age or over and the child meets the requirements of par. (a) 3.

**SECTION 32. DCF 56.03 (5) is repealed and recreated to read:**

**DCF 56.03 (5)** “Child” means a person who is under 21 years of age who is placed in a foster home under juvenile court jurisdiction, other court order, or an agreement.

**SECTION 33. DCF 56.03 (12), (13), (34p), and (38) are amended to read:**

**DCF 56.03 (12)** “Foster care” means care and maintenance provided to a child in a foster home pursuant to a court order, ~~or~~ voluntary placement agreement, or voluntary transition-to-independent-living agreement.

**(13)** “Foster child” means a child placed for care and maintenance in a foster home by the department, a county agency, a licensed private child-placing agency or a court by court order, ~~or~~ voluntary placement agreement, or voluntary transition-to-independent-living agreement.

**(34p)** “Residential care center for children and youth” means a residential facility licensed as a child welfare agency under s. 48.60, Stats., and ch. DCF 52 that provides treatment and custodial services for children, ~~youth and young adults ages 18, 19 or 20~~ under 21 years of age.

**(38)** “Voluntary placement agreement” means a written contract between a county agency, the department, or a licensed child welfare agency, and the child’s parent or guardian and the child, if the child is 12 years of age or older, for the placement of the child in a licensed foster home under s. 48.63 (1), Stats.



**SECTION 34. DCF 56.03 (39) is created to read:**

**DCF 56.03 (39)** “Voluntary transition-to-independent-living agreement” means a voluntary agreement under s. 48.366 (3) or 938.366 (3), Stats.

**SECTION 35. DCF 56.09 (1m) (b) and (c) are amended to read:**

**DCF 56.09 (1m) (b)** Notwithstanding par. (a), for the purpose of maintaining sibling connections, a licensing agency may grant an exception to allow 7 or fewer foster children in a foster home. A licensing agency shall apply to the department exceptions panel to place 8 or more children in a foster home if necessary to keep siblings together. The licensing agency shall follow the requirements established under s. DCF 56.02 (2) when granting or requesting an exception under this ~~subsection~~ paragraph and shall modify the license to reflect a reduction in the number of foster children in the home if any of the children leave.

(c) Notwithstanding par. (a), for the purpose of maintaining a parental connection for a minor parent and minor child who are placed together, a licensing agency may grant an exception to allow 7 or fewer foster children in a foster home. A licensing agency shall apply to the department exceptions panel to place 8 or more children in a foster home if necessary to keep a minor parent and minor child together. The licensing agency shall follow the requirements established under s. DCF 56.02 (2) when granting or requesting an exception under this ~~section~~ paragraph and shall modify the license to reflect a reduction in the number of foster children in the home if any of the children leave.

**SECTION 36. DCF 56.09 (1m) (cm) is created to read:**

**DCF 56.09 (1m) (cm)** *Placement continuity exception.* Notwithstanding par. (a), for the purpose of maintaining previous existing connections, a licensing agency may grant an exception

to allow 7 or fewer foster children in a foster home. A licensing agency shall apply to the department exceptions panel to place 8 or more children in a foster home if necessary to allow a child who was previously placed in the foster home and was on a trial reunification or a child who is under a voluntary transition-to-independent living agreement to return to the foster home. The licensing agency shall follow the requirements established under s. DCF 56.02 (2) when granting or requesting an exception under this paragraph and shall modify the license to reflect a reduction in the number of foster children in the home if any of the children leave.

**SECTION 37. DCF 57.02 (2) and (note) are amended to read:**

**DCF 57.02 (2)** A request for an exception to a non-statutory rule requirement shall be made ~~in writing~~ to the department on a form prescribed by the department and shall justify each reason for requesting an exception. The request shall also describe an alternative that meets the intent of the requirement.

**Note:** Form DCF-F-5023-E, *Child Welfare Request for Exception*, is available in the forms section of the department website, <http://dcf.wisconsin.gov>. Requests for an exception should be sent to the field office listed in Appendix A that serves the group home.

**SECTION 38. DCF 57.04 (6) is repealed and recreated to read:**

**DCF 57.04 (6)** “Child” is a person who is under 21 years of age and is under juvenile court jurisdiction or other court order, is being provided services by a child welfare or juvenile justice agency, or is placed under an agreement.

**SECTION 39. DCF 57.04 (34) is repealed and recreated to read:**

**DCF 57.04 (34)** “Resident” means a child who is admitted to and resides in a group home.

**SECTION 40. DCF 57.05 (1) (c) (note) are amended to read:**

DCF 57.05 (1) (c) Note: Types of resident population refers to a description of the population served by the group home, for example whether the group home serves children with developmental disabilities; emotional or behavioral disorders; alcohol, drug or other substance abuse problems; juvenile delinquents; correctional aftercare placements; custodial parents; expectant mothers; respite care; ~~or children under 6 years of age;~~ or children who are transitioning to independence.

**SECTION 41. DCF 57.13 (1) (j) is amended to read:**

DCF 57.13 (1) (j) Any physical damage to the premises that would affect compliance with this chapter including any structural damage that would affect the safe shelter of ~~children~~ residents or any failure in the heating, cooling, electrical, plumbing, or smoke or fire detection system that is not repaired or that cannot be repaired within 24 hours after the failure occurs or becomes known.

**SECTION 42. DCF 57.14 (2) (intro.) is renumbered DCF 57.14 (2) (a) and (b) and is amended to read:**

DCF 57.14 (2) (a) A hired or contracted staff member ~~hired or contracted for on or after January 1, 2006,~~ shall be at least 21 years old. ~~Except as provided in sub. (4) (a),~~ and 2 years older than the oldest resident.

(b) Notwithstanding par. (a), a staff member who is 19 ~~or 20~~ to 21 years old and 2 years older than the oldest resident may be hired or employed; for any position except program director under sub. (4) (a) if during the individual's course of employment the individual is enrolled in and regularly attends a college or university with a major in any of the following:

**SECTION 43. DCF 57.14 (2) (a) to (g) is renumbered DCF 57.14 (2) (b) 1. to 7.**

**SECTION 44. DCF 57.14 (2) (c) is created to read:**

**DCF 57.14 (2) (c)** Notwithstanding par. (a) or (b), a staff member who is 19 years of age or over may retain employment or contract if the staff member is hired or contracted for before a new resident who is 18 years of age or over is admitted to the group home.

**SECTION 45. DCF 57.14 (4) (a) 1. is amended to read:**

**DCF 57.14 (4) (a) 1.** ‘Qualifications.’ A program director shall be at least 21 years old, have a 4-year college degree in one of the major fields of study specified in ~~sub. (2)~~ sub. (2) (b) 1. to 7., and have 2 years of supervised child welfare work experience.

**SECTION 46. DCF 57.19 (6) is repealed and recreated to read:**

**DCF 57.19 (6)** A group home may admit a child 18 years of age or over, but under 21 years of age, if any of the following circumstances exist:

(a) The group home will not have more than 2 children under s. DCF 57.04 (6) (b) to (e).

(b) The group home has a license to serve a resident population that is 18 years of age or over, but under 21 years of age, and is transitioning to independence.

**Note:** A licensee of an existing group home may request a license amendment under s. DCF 57.515 (2).

(c) The department has granted an exception under s. DCF 57.02 to allow the group home to admit or continue the admission of the child. If the group home does not have a license specified in par. (b), an exception is required before the group home may admit or provide care for more than 2 children under s. DCF 57.04 (6) (b) to (e).

**SECTION 47. DCF 57.23 (2) (a) (intro.) is amended to read:**

DCF 57.23 (2) (a) (intro.) Upon completion of the assessment required under sub. (1), the program director shall develop a written treatment plan with the participation of the placing agency; the resident; a parent ~~or if the resident is under 18 years of age;~~ a guardian and ~~the~~ legal custodian, if applicable and available; and the persons who will provide the required services to the resident. A completed treatment plan for each resident shall be placed in the resident's record maintained by the group home under s. DCF 57.38; and shall include all of the following:

**SECTION 48. DCF 57.23 (2) (a) 13. is created to read:**

DCF 57.23 (2) (a) 13. Consideration of additional requirements for the care of children under s. DCF 57.04 (6) (c) and (e).

**SECTION 49. DCF 57.33 (2) is amended to read:**

DCF 57.33 (2) A resident who is 18 years of age or older may not share a bedroom with a ~~resident~~ child who is under 18 years of age, unless the resident who is 18 years of age or older is continuing to share a bedroom with a child he or she had already been sharing the bedroom with before turning 18 years of age.

**SECTION 50. DCF 57.38 (2) is amended to read:**

DCF 57.38 (2) Resident records shall be maintained in a secure location pursuant to the confidentiality requirements in s. DCF 57.39. The record required in sub. (1) shall be maintained by the licensee until the resident reaches the age of ~~19~~ 21 or 7 years after the resident is discharged from the group home, whichever is later. The record of a resident that has been discharged may be stored off the premises, but must be made available to the department upon request.

**SECTION 51. DCF 57.515 is renumbered DCF 57.515 (1).**

**SECTION 52. DCF 57.515 (2) is created to read:**

**DCF 57.515 (2)** A request to amend a license to serve a resident population that is 18 years of age and over, but under 21 years of age, and is transitioning to independence, shall be on a form prescribed by the department.

**Note:** Form DCF-F-5081-E, *Amendment Request to Extend Care to Residents 18 Years of Age or Over, But Under 21 Years of Age*, is available in the forms section of the department's website, <http://dcf.wisconsin.gov>, or from a department field office. See Appendix A for the address of the field office for your area.

**SECTION 53. DCF 58.03 (3) is repealed and recreated to read:**

**DCF 58.03 (3)** "Child" means any of the following:

- (a) A person under 18 years of age.
- (b) A person 18 years of age or over, but under 19 years of age, who is a full-time student in good academic standing at a secondary school or its vocational or technical equivalent and who is reasonably expected to complete his or her program of study and be granted a high school or high school equivalency diploma.
- (c) The person meets all of the following conditions:
  - 1. The person is 18 years of age or over, but under 21 years of age.
  - 2. The person is a full-time student at a secondary school or its vocational or technical equivalent.
  - 3. There is an individualized education program under s. 115.787, Stats., in effect for the person.

**SECTION 54. DCF 58.03 (12) and (15) are amended to read:**

**DCF 58.03 (12)** “Kinship care payment” or “kinship care benefit” means a monthly payment of ~~\$215 before January 1, 2011, and \$220~~ \$232 beginning January 1, ~~2011~~ 2015, to a relative who is providing care and maintenance for a child.

**(15)** “Long-term kinship care payment” or “long-term kinship care benefit” means a monthly payment of ~~\$215 before January 1, 2011, and \$220~~ \$232 beginning January 1, ~~2011~~ 2015, to a relative who is providing care and maintenance for a child.

**SECTION 55. DCF 58.03 (20) is created to read:**

**DCF 58.03 (20)** “Voluntary transition-to-independent-living agreement” means a voluntary agreement under s. 48.366 (3) or 938.366 (3), Stats.

**SECTION 56. DCF 58.04 (4) (title) is amended to read:**

**DCF 58.04 (4) (title)** VERIFICATION OF SCHOOL STATUS FOR CHILDREN ~~18 YEAR~~  
~~OLDS~~ YEARS OF AGE OR OVER.

**SECTION 57. DCF 58.04 (3) (b) is renumbered to DCF 58.04 (3) (b) (intro.) and (b) 1. and amended to read:**

**DCF 58.04 (3) (b)** Complete, to the extent the applicant or kinship care or long-term kinship care relative is able, any form required for referral of the child’s parent or parents to the child support agency, except ~~that the~~ in the following circumstances:

1. The kinship care or long-term kinship care relative or prospective kinship care or long-term kinship care relative may claim good cause for not cooperating in accordance with the procedures specified under s. DCF 58.09. That claim, if approved by the agency, negates this responsibility.

**SECTION 58. DCF 58.04 (3) (b) 2. is created to read:**

**DCF 58.04 (3) (b) 2.** The kinship care or long-term kinship care relative or prospective kinship care or long-term kinship care relative is not required to complete a form for referral to a child support agency if the child is 18 years of age or over.

**SECTION 59. DCF 58.04 (4) (a) and (b) are renumbered DCF 58.04 (4) (a) 1. and 2.**

**SECTION 60. DCF 58.04 (4) (b) is created to read:**

**DCF 58.04 (4) (b) 1.** If the child turned 18 years of age on or after August 1, 2014, but is under 21 years of age, the agency shall verify that the child is enrolled full-time at a secondary school or its vocational or technical equivalent, is in good academic standing, and there is an individualized education program under s. 115.787, Stats., in effect for the person.

2. The applicant or kinship care or long-term kinship care relative shall provide the kinship care agency with a statement signed by the kinship care or long-term kinship care relative and an official from the child's school or alternative high school program stating that the child meets all of the following criteria:

a. The child is enrolled full-time in high school or a high school equivalency program or, if school is not currently in session, the child was enrolled during the previous session, and will be enrolled during the next session.

b. The child is currently in good academic standing, or if the determination is made when school is not in session, the child was in good academic standing at the close of the previous session.

c. There is an individualized education program under s. 115.787, Stats., in effect for the child.



**SECTION 61. DCF 58.04 (4) (c) 5. is created to read:**

**DCF 58.04 (4) (c) 5.** There is no longer an individualized education program under s. 115.787, Stats., in effect for the child.

**SECTION 62. DCF 58.065 (1) is amended to read:**

**DCF 58.065 (1)** Subject to subs. (2) and (3), the agency may make kinship care payments to a kinship care relative or long-term kinship care payments to a long-term kinship care relative who is providing care and maintenance for a child who is placed in the home of the kinship care relative or long-term kinship care relative under a court order or a voluntary transition-to-independent-living agreement until the earlier of the following:

**SECTION 63. DCF 58.10 (3) (a) 3. and 5. are amended to read:**

**DCF 58.10 (3) (a) 3.** That court jurisdiction, if sought, would exist for a child 18 years of age or over, but under ~~19~~ 21 years of age, under s. 48.13 or 938.13, Stats., or with the tribal court in a child welfare matter but for the fact that the child is too old for such jurisdiction.

**5.** That if the child is 18 years of age or over, but under ~~19~~ 21 years of age, and the child remained in his or her home, the child would be at risk of meeting one or more of the criteria under s. 48.13 or 938.13, Stats., but for the fact that the child is 18 years of age or over.

**SECTION 64. DCF 58.12 (4) is amended to read:**

**DCF 58.12 (4)** An applicant may not be placed on a waiting list if the child for whom a payment is requested has been placed with the kinship care relative by a court under s. 48.355, 48.357 or 48.977, Stats., or pursuant to a petition under s. 938.13, Stats., or by a court under s.

938.355 or 938.357, Stats., or by a tribal court in a matter related to the child's need for protection or services, or under a voluntary transition-to-independent-living agreement.

**SECTION 65. EFFECTIVE DATE.** This rule shall take effect the first day of the month following publication in the Administrative Register as provided in s. 227.22 (2) (intro.), Stats.