



EXHIBIT G

**Arkansas Department of Human Services
Division of Children and Family Services**

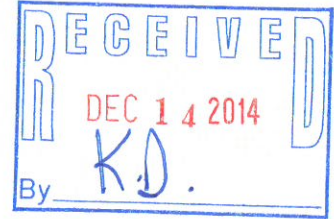
700 Main Street, Donaghey Plaza South, 5th Floor

P.O. Box 1437, Slot S560

Little Rock, Arkansas 72203-1437

Telephone (501) 682-8008 TDD (501) 682-1442 FAX (501) 682-6968

December 17, 2014



Varnaria Vickers-Smith, Legislative Analyst
Senate Interim Children and Youth Committee and the
House Aging, Children and Youth, Legislative and Military Affairs Committee
Arkansas Bureau of Legislative Research
One Capital Mall, 5th Floor, Room R-516
Little Rock, AR 72201

RE: Initial Filing - Regular Promulgation

Dear Ms. Vickers-Smith:

Please place the Division of Children & Family Services on the Children & Youth Committee agenda for review of the Rules as listed on the Questionnaire. The public comment period is from December 17, 2014 to January 15, 2015, with an effective date of June 15, 2015.

Enclosed are copies of the Questionnaire, Summary of Changes, Financial Impact Statement and Rule.

If you have any questions or comments, please contact Christin Harper, Policy & Professional Development Administrator, Division of Children and Family Services, P.O. Box 1437, (Slot S570), Little Rock, Arkansas 72203-1437; phone 682-8541; email christin.harper@arkansas.gov or fax 682-6968.

Sincerely,

Cecile Blucker ^{by B.D.}

Cecile Blucker

Director, Division of Children and Family Services

NOTICE OF RULE MAKING

Pursuant to A.C.A. § 9-28-103, the Director, Division of Children and Family Services, issues proposed changes to the Division's Policy VI-A: Out-of-Home Placement Criteria, Policy VI-C: Maintaining Family Ties in Out-of-Home Placement, and Policy VIII-L: Subsidized Guardianship to comply with federal IV-E program instructions to:

- Update the definition of sibling to include an individual who is considered by state/tribal law to be a sibling or who would be considered a sibling under state/tribal law if it were not for the disruption of parental rights.
- Update information regarding payment of a guardianship subsidy to a successor guardian.

The proposed changes are available for review at the Division of Children and Family Services, Policy Unit, 5th floor Donaghey Plaza South, 7th and Main Streets, Little Rock, AR. 72203-1437. All comments must be submitted in writing to the Policy Unit no later than January 15, 2015. All the proposed changes may be viewed in their entirety at

<https://ardhs.sharepointsite.net/CW/Notice%20of%20Rule%20Making/Forms/AllItems.aspx>.

If you need this material in a different format, such as large print, contact our Americans with Disabilities Act Coordinator at 501- 682-8830 (Voice) or 501- 682-1442 (TDD). The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and operates, manages and delivers services without regard to age, religion, disability, political affiliation, veteran status, sex, race, color or national origin.



Cecile Blucker

Director, Division of Children and Family Services

12-17-14

Date

BUREAU OF LEGISLATIVE RESEARCH

DEPARTMENT OF HUMAN SERVICES
Division of Children and Family Services
AMENDING ADMINISTRATIVE REGULATIONS

TITLE: **Revised Rule**

- **POLICY VI-A: OUT-OF-HOME PLACEMENT CRITERIA**
- **POLICY VI-C: MAINTAINING FAMILY TIES IN OUT-OF-HOME PLACEMENT**
- **POLICY VIII-L: SUBSIDIZED GUARDIANSHIP**

PROPOSED EFFECTIVE DATE: June 15, 2015

STATUTORY AUTHORITY: A.C.A. 9-28-103

NECESSITY AND FUNCTION: **Revised Rule**

- **POLICY VI-A: OUT-OF-HOME PLACEMENT CRITERIA**
 - To update the definition of sibling, per federal IV-E program instructions, to include an individual who is considered by state/tribal law to be a sibling or who would be considered a sibling under state/tribal law if it were not for the disruption of parental rights.
- **POLICY VI-C: MAINTAINING FAMILY TIES IN OUT-OF-HOME PLACEMENT**
 - To update the definition of sibling, per federal IV-E program instructions, to include an individual who is considered by state/tribal law to be a sibling or who would be considered a sibling under state/tribal law if it were not for the disruption of parental rights.
- **POLICY VIII-L: SUBSIDIZED GUARDIANSHIP**
 - To update information regarding payment of a guardianship subsidy to a successor guardian to comply with federal IV-E program instructions.

PAGES FILED:

Cecile Blucker ^{by B.D.}

Signature

Name: Cecile Blucker Title: Director

Section: Division of Children and Family Services

Department of Human Services

PROMULGATION DATES: December 17, 2014-January 15, 2015

CONTACT PERSON: Christin Harper
DHS-DCFS Policy Unit
Phone: (501) 682-8541
Fax: (501) 683-4854
Email: christin.harper@arkansas.gov

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Department of Human Services
 DIVISION Division of Children and Family Services
 DIVISION DIRECTOR Cecile Blucker
 CONTACT PERSON Christin Harper, Policy & Professional Development Administrator
 ADDRESS P. O. Box 1437, Slot S570, Little Rock, AR 72203-1437
 PHONE NO. (501)682-8541 FAX NO. (501) 683-4854 E-MAIL christin.harper@dhs.arkansas.gov
 NAME OF PRESENTER AT COMMITTEE MEETING Christin Harper
 PRESENTER E-MAIL christin.harper@dhs.arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
 Administrative Rules Review Section
 Arkansas Legislative Council
 Bureau of Legislative Research
 One Capitol Mall, 5th Floor
 Little Rock, AR 72201

1. What is the short title of this rule? Policy Revisions to Comply with Federal IV-E Program Instructions and Public Law 113-183

2. What is the subject of the proposed rule? To update the definition of sibling and information regarding payment of a guardianship subsidy to successor guardians to comply with federal IV-E program instructions and Public Law 113-183.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
 Administration on Children, Youth, and Families, Children's Bureau Program Instruction 14-06 and Titles IV-B and IV-E, as amended by Public Law 113-183, enacted 09-29-14.
 If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
 If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire?

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A. § 9-28-103

7. What is the purpose of this proposed rule? Why is it necessary?

- POLICY VI-A: OUT-OF-HOME PLACEMENT CRITERIA
 - o To update, per federal IV-E program instructions, the definition of sibling to include an individual who is considered by state/tribal law to be a sibling or who would be considered a sibling under state/tribal law if it were not for the disruption in parental rights.
- POLICY VI-C: MAINTAINING FAMILY TIES IN OUT-OF-HOME PLACEMENT
 - o To update, per federal IV-E program instructions, the definition of sibling to include an individual who is considered by state/tribal law to be a sibling or who would be considered a sibling under state/tribal law if it were not for the disruption in parental rights.
- POLICY VIII-L: SUBSIDIZED GUARDIANSHIP
 - o To update, per federal IV-E program instructions, information regarding payment of a guardianship subsidy to allow the continuation of title IV-E kinship guardianship assistance payments if the relative guardian dies or is incapacitated and a successor legal guardian is named in the agreement..

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

AR Secretary of State Website

DHS/DCFS CHRIS public:

<https://ardhs.sharepointsite.net/CW/Notice%20of%20Rule%20Making/Forms/AllItems.aspx>

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

January 15, 2015

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

June 15, 2015

12. Do you expect this rule to be controversial? Yes No

If yes, please
explain. _____

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

We do not know of any specific groups of persons who would comment.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services
DIVISION Division of Children and Family Services
PERSON COMPLETING THIS STATEMENT Cecile Blucker
TELEPHONE NO. (501)682-6248 **FAX NO.** (501) 682-6968 **EMAIL:** cecile.blucker@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Policy Revisions to Comply with Federal IV-E Program Instructions and Public Law 113-183

- 1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
General Revenue _____	General Revenue _____
Federal Funds _____	Federal Funds _____
Cash Funds _____	Cash Funds _____
Special _____	Special Revenue _____

Revenue _____
Other (Identify) _____

Other (Identify) _____

Total 0.00

Total 0.00

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0.00

Total 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00

\$ 0.00

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0.00

\$ 0.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

DCFS SUMMARY OF CHANGES FOR DECEMBER 2014 PROMULGATION

SUMMARY OF DCFS REGULAR PROMULGATION

The purpose of this regular promulgation is to make revisions to the Division's policies and procedures to comply with federal IV-E program instructions to:

- To update the definition of sibling to include an individual who is considered by state/tribal law to be a sibling or who would be considered a sibling under state/tribal law if it were not for the disruption of parental rights.
- To update information regarding payment of a guardianship subsidy to a successor guardian.

VI. SERVICES TO REUNIFY FAMILIES

POLICY VI-A: OUT-OF-HOME PLACEMENT CRITERIA

068/20153

The state of Arkansas is not a voluntary placement state. The removal of a child from his or her home must occur pursuant to a judicial order placing custody of the child with the Department. After the Department removes the child or the court grants custody of the child to the Department, the child shall be placed in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined at A.C.A. § 9-28-402.

When a child is in the custody of the Department of Human Services, DCFS shall ensure that the out-of-home placement is in the best interest of the child, is the least restrictive possible, is matched to the child's physical and therapeutic needs (e.g., caretakers have the skills and training sufficient to meet the child's individual needs), and is close in proximity to the child's parents and the child's school. All efforts to place a child within Arkansas shall be thoroughly explored and documented before consideration is given to out-of-state placement.

If the biological parent expresses a preference for placing a child in a home of the same or similar religious background to the biological parents, the Division will place the child with a family that meets the genetic parent's religious background. If a family with the same or similar religious background is not available, the Division will place the child with a family of a different religious background but that is knowledgeable and appreciative of the child's religious background.

When it is in the best interest of each of the children, the Department shall attempt to place siblings together while in out-of-home placements. Siblings include those individuals who would be considered a sibling under state/tribal law if it were not for the disruption in parental rights, such as a termination of parental rights or death of a parent. When it is in the best interest of each of the children, the Department shall attempt to place together infants with minor mothers who are in foster care.

The state shall check all appropriate child abuse and neglect registries for information on any prospective foster or adoptive parent and any household member age 14 and up living in the home before the prospective parent may be finally approved for placement of that child. This will be done regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child. The state shall also request any other state in which a prospective parent or any household member age 14 and up has resided in the preceding five years to check any child abuse and neglect registry it maintains for such information. The state will comply with any request received from another state to check its own child abuse and neglect registry.

In addition, a child in the custody of the Department shall not be placed in an approved home of any foster or adoptive parent unless all household members 18 and one-half years of age and older, excluding children in foster care, have had an Arkansas State Police Criminal Record Check.

A child in the custody of the Department shall also not be placed in an approved home of any foster or adoptive parent unless all household members 18 and one-half years of age and older, excluding children in foster care, have a fingerprint-based FBI Criminal Background Check.

No child shall be placed in the home of a foster parent where a records check reveals a felony conviction for child abuse or neglect, for spousal abuse or domestic battery, for a crime against children (including child pornography), or a crime involving violence, including rape, sexual assault or homicide. No child shall be placed in the home of a foster parent if the record check reveals a criminal conviction for physical assault, battery, or a drug related offense, if the offense was committed within the past five years. The placement decision shall be based on an individual assessment of the child's needs.

In all custodial placements by DCFS, preferential consideration will be given to an adult relative over a nonrelated caregiver if the relative caregiver meets all relevant child protection standards and it is in the best interest of the child to be placed with the relative caregiver. All potential out-of-state relative placements will be given the same opportunity as in-state relative placements to choose to become foster homes.

In order to assist in placing the child with an appropriate relative, the court will order the parent(s) to provide the necessary information to the Department to locate appropriate relatives:

- A. The names, addresses, and phone numbers of any relatives who may be placement resources for the child;
- B. The names, addresses, and phone numbers and other identifying information on any putative father(s) of the child;
- C. Any information regarding possible membership or descent from an Indian tribe;
- D. Information necessary to determine financial eligibility for services or foster care.

If the relative meets all relevant child protection standards and it is in the child's best interest to be placed with the relative caregiver, the FSW shall discuss with the relative the following two options for placement of the child in the relative's home:

- A. The relative becoming a DCFS provisional foster home prior to becoming a regular DCFS foster home (if the relative opts to have his or her home opened as a provisional foster home, the relative shall not be paid a board payment until the relative is opened as a regular foster home); or,
- B. The relative obtaining legal custody of the child.

For more information on these placement options, refer to Policy VI-B: Consideration of Relatives and Fictive Kin for Children in Foster Care.

Fictive kin to the child may be an appropriate placement option for a child provided the individual meets all relevant child protection standards and it is in the child's best interest to be placed with fictive kin. Fictive kin are defined as persons not related by blood or marriage but who have a strong, positive emotional tie to the child, and have a positive role in the child's life such as, godparents, neighbors, or family friends. If an appropriate fictive kin is identified as a placement option for a child, the FSW shall discuss with the fictive kin the following two options for placement of the child in the fictive kin's home:

- A. The fictive kin becoming a DCFS provisional foster home prior to becoming a regular DCFS foster home (if the fictive kin opts to have his or her home opened as a provisional foster home, the fictive kin shall not be paid a board payment until the fictive kin is opened as a regular foster home); or,
- B. The fictive kin obtaining legal custody of the child.

The child shall remain in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined at A.C.A. § 9-28-402(12), until:

- A. The relative or fictive kin's home is opened as a provisional foster home or regular foster home; or,
- B. The court grants custody of the child to the relative or fictive kin after a written approved home study is presented to the court.

Placement or custody of a child in the home of a relative or other person shall not relieve the Department of its responsibility to actively implement the goal of the case.

The court may order a child to remain in a placement if the court finds the placement is in the best interest of the child (with the exception that the court shall not order a child to remain in a placement in a foster home that has been closed or suspended by a child placement agency) after hearing evidence from all parties. The court shall not specify a particular provider for placement or family services, when DHS is the payer or provider; however, the court may order a child to be placed into a licensed approved placement (i.e., no child shall be placed in a foster home that has been closed or suspended by a child placement agency) after a hearing where the court makes a finding that it is in the best interest of the child based on bona fide consideration of evidence and recommendations from all the parties.

If the court orders a child to be placed into a licensed approved placement as outlined above, a IV-E eligible child may still remain IV-E claimable. However, if the court orders a child into a specific placement and it is determined that the court did not make a finding based on bona fide consideration of evidence and recommendations from all parties a IV-E eligible child's IV-E claimability may be affected.

If the health or welfare of a child is in immediate danger while in a court-ordered placement the Division may immediately remove the child from the court-ordered placement. If the Division must move a child from a court-ordered placement due to the health or welfare of a child being in immediate danger, the Division shall notify all parties within 24 hours of the change in placement. Regarding this type of placement change, a hearing may be requested by a party to the case, and the hearing shall be held within five business days of receiving the request.

In all cases in which family services are ordered, the court shall determine the parent's, guardian's, or custodian's ability to pay, in whole or in part, for these services. This determination and the evidence supporting it shall be made in writing in the court order ordering family services. If the court determines that the parent, guardian, or custodian is able to pay, in whole or part, for the services, the court shall enter a written order setting forth the amounts the parent, guardian, or custodian can pay for the family services ordered and ordering the parent, guardian, or custodian to pay the amount periodically to the provider from whom family services are received. If a child is committed to a youth services center or detained in a juvenile detention facility and is covered by private health insurance, the court may order the parent or guardian to provide information on the health insurance coverage (including a copy of the health insurance policy and pharmacy card when available) to the detention or youth services center.

A child of a parent who is in DHS custody, is also considered a dependent juvenile and is eligible to receive foster care maintenance payments and is deemed to be a recipient of aid to families with dependent children. Titles XIX and XX services will be available to the child in the state in which the child resides.

Children who are in the custody of the Department shall be allowed trial placements with parents, for a period not to exceed 60 days. This includes trial placements with the juvenile's parent(s) from whom custody was removed (or other person from whom custody was removed). At the end of the 60 days, the court shall either place custody of the child with the parent, or the Department shall return the child to a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined in A.C.A. § 9-28-402.

When a child leaves the custody of the Department and the court grants custody to the parent or another person, the Department is no longer the legal custodian of the child, even if the Juvenile Division of Circuit Court retains jurisdiction.

VI. SERVICES TO REUNIFY FAMILIES

POLICY VI-A: OUT-OF-HOME PLACEMENT CRITERIA

06/2015

The state of Arkansas is not a voluntary placement state. The removal of a child from his or her home must occur pursuant to a judicial order placing custody of the child with the Department. After the Department removes the child or the court grants custody of the child to the Department, the child shall be placed in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined at A.C.A. § 9-28-402.

When a child is in the custody of the Department of Human Services, DCFS shall ensure that the out-of-home placement is in the best interest of the child, is the least restrictive possible, is matched to the child's physical and therapeutic needs (e.g., caretakers have the skills and training sufficient to meet the child's individual needs), and is close in proximity to the child's parents and the child's school. All efforts to place a child within Arkansas shall be thoroughly explored and documented before consideration is given to out-of-state placement.

If the biological parent expresses a preference for placing a child in a home of the same or similar religious background to the biological parents, the Division will place the child with a family that meets the genetic parent's religious background. If a family with the same or similar religious background is not available, the Division will place the child with a family of a different religious background but that is knowledgeable and appreciative of the child's religious background.

When it is in the best interest of each of the children, the Department shall attempt to place siblings together while in out-of-home placements. Siblings include those individuals who would be considered a sibling under state/tribal law if it were not for the disruption in parental rights, such as a termination of parental rights or death of a parent. When it is in the best interest of each of the children, the Department shall attempt to place together infants with minor mothers who are in foster care.

The state shall check all appropriate child abuse and neglect registries for information on any prospective foster or adoptive parent and any household member age 14 and up living in the home before the prospective parent may be finally approved for placement of that child. This will be done regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child. The state shall also request any other state in which a prospective parent or any household member age 14 and up has resided in the preceding five years to check any child abuse and neglect registry it maintains for such information. The state will comply with any request received from another state to check its own child abuse and neglect registry.

In addition, a child in the custody of the Department shall not be placed in an approved home of any foster or adoptive parent unless all household members 18 and one-half years of age and older, excluding children in foster care, have had an Arkansas State Police Criminal Record Check.

A child in the custody of the Department shall also not be placed in an approved home of any foster or adoptive parent unless all household members 18 and one-half years of age and older, excluding children in foster care, have a fingerprint-based FBI Criminal Background Check.

No child shall be placed in the home of a foster parent where a records check reveals a felony conviction for child abuse or neglect, for spousal abuse or domestic battery, for a crime against children (including child pornography), or a crime involving violence, including rape, sexual assault or homicide. No child shall be placed in the home of a foster parent if the record check reveals a criminal conviction for physical assault, battery, or a drug related offense, if the offense was committed within the past five years. The placement decision shall be based on an individual assessment of the child's needs.

In all custodial placements by DCFS, preferential consideration will be given to an adult relative over a nonrelated caregiver if the relative caregiver meets all relevant child protection standards and it is in the best interest of the child to be placed with the relative caregiver. All potential out-of-state relative placements will be given the same opportunity as in-state relative placements to choose to become foster homes.

In order to assist in placing the child with an appropriate relative, the court will order the parent(s) to provide the necessary information to the Department to locate appropriate relatives:

- A. The names, addresses, and phone numbers of any relatives who may be placement resources for the child;
- B. The names, addresses, and phone numbers and other identifying information on any putative father(s) of the child;
- C. Any information regarding possible membership or descent from an Indian tribe;
- D. Information necessary to determine financial eligibility for services or foster care.

If the relative meets all relevant child protection standards and it is in the child's best interest to be placed with the relative caregiver, the FSW shall discuss with the relative the following two options for placement of the child in the relative's home:

- A. The relative becoming a DCFS provisional foster home prior to becoming a regular DCFS foster home (if the relative opts to have his or her home opened as a provisional foster home, the relative shall not be paid a board payment until the relative is opened as a regular foster home); or,
- B. The relative obtaining legal custody of the child.

For more information on these placement options, refer to Policy VI-B: Consideration of Relatives and Fictive Kin for Children in Foster Care.

Fictive kin to the child may be an appropriate placement option for a child provided the individual meets all relevant child protection standards and it is in the child's best interest to be placed with fictive kin. Fictive kin are defined as persons not related by blood or marriage but who have a strong, positive emotional tie to the child, and have a positive role in the child's life such as, godparents, neighbors, or family friends. If an appropriate fictive kin is identified as a placement option for a child, the FSW shall discuss with the fictive kin the following two options for placement of the child in the fictive kin's home:

- A. The fictive kin becoming a DCFS provisional foster home prior to becoming a regular DCFS foster home (if the fictive kin opts to have his or her home opened as a provisional foster home, the fictive kin shall not be paid a board payment until the fictive kin is opened as a regular foster home); or,
- B. The fictive kin obtaining legal custody of the child.

The child shall remain in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined at A.C.A. § 9-28-402(12), until:

- A. The relative or fictive kin's home is opened as a provisional foster home or regular foster home; or,
- B. The court grants custody of the child to the relative or fictive kin after a written approved home study is presented to the court.

Placement or custody of a child in the home of a relative or other person shall not relieve the Department of its responsibility to actively implement the goal of the case.

The court may order a child to remain in a placement if the court finds the placement is in the best interest of the child (with the exception that the court shall not order a child to remain in a placement in a foster home that has been closed or suspended by a child placement agency) after hearing evidence from all parties. The court shall not specify a particular provider for placement or family services, when DHS is the payer or provider; however, the court may order a child to be placed into a licensed approved placement (i.e., no child shall be placed in a foster home that has been closed or suspended by a child placement agency) after a hearing where the court makes a finding that it is in the best interest of the child based on bona fide consideration of evidence and recommendations from all the parties.

If the court orders a child to be placed into a licensed approved placement as outlined above, a IV-E eligible child may still remain IV-E claimable. However, if the court orders a child into a specific placement and it is determined that the court did not make a finding based on bona fide consideration of evidence and recommendations from all parties a IV-E eligible child's IV-E claimability may be affected.

If the health or welfare of a child is in immediate danger while in a court-ordered placement the Division may immediately remove the child from the court-ordered placement. If the Division must move a child from a court-ordered placement due to the health or welfare of a child being in immediate danger, the Division shall notify all parties within 24 hours of the change in placement. Regarding this type of placement change, a hearing may be requested by a party to the case, and the hearing shall be held within five business days of receiving the request.

In all cases in which family services are ordered, the court shall determine the parent's, guardian's, or custodian's ability to pay, in whole or in part, for these services. This determination and the evidence supporting it shall be made in writing in the court order ordering family services. If the court determines that the parent, guardian, or custodian is able to pay, in whole or part, for the services, the court shall enter a written order setting forth the amounts the parent, guardian, or custodian can pay for the family services ordered and ordering the parent, guardian, or custodian to pay the amount periodically to the provider from whom family services are received. If a child is committed to a youth services center or detained in a juvenile detention facility and is covered by private health insurance, the court may order the parent or guardian to provide information on the health insurance coverage (including a copy of the health insurance policy and pharmacy card when available) to the detention or youth services center.

A child of a parent who is in DHS custody, is also considered a dependent juvenile and is eligible to receive foster care maintenance payments and is deemed to be a recipient of aid to families with dependent children. Titles XIX and XX services will be available to the child in the state in which the child resides.

Children who are in the custody of the Department shall be allowed trial placements with parents, for a period not to exceed 60 days. This includes trial placements with the juvenile's parent(s) from whom custody was removed (or other person from whom custody was removed). At the end of the 60 days, the court shall either place custody of the child with the parent, or the Department shall return the child to a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined in A.C.A. § 9-28-402.

When a child leaves the custody of the Department and the court grants custody to the parent or another person, the Department is no longer the legal custodian of the child, even if the Juvenile Division of Circuit Court retains jurisdiction.

POLICY VI-C: MAINTAINING FAMILY TIES IN OUT-OF-HOME PLACEMENT

06/2015~~1~~

The Division believes that strengths of families and supporting these strengths contribute to life-long permanent relationships for children. This belief is supported by research demonstrating that children who are able to maintain positive family ties while in out-of-home placement achieve better short- and long-term outcomes. Therefore, families and children shall have reasonable opportunities for personal visits, communication by telephone, and involvement in life events such as teacher conferences, school and community events. A plan for visits shall be developed between a child in out-of-home placement and the family and siblings, whether or not the siblings are in out-of-home placement. **Siblings include those individuals who would be considered a sibling under state/tribal law if it were not for the disruption in parental rights, such as a termination of parental rights or death of a parent.** The preferred location for the visits is the parent's home or, if that is not possible, in the most homelike setting possible. Office visits are a last resort.

Siblings shall live together in the same foster home. When it is in the best interest of each of the children, the Department shall attempt to place siblings together while they are in a foster care and adoptive placement. Siblings may be placed separately only if an assessment determines that placement of the siblings together would be detrimental to their best interest or is otherwise not possible at the time of initial placement. The reasons for the separation must be provided in a written recommendation from appropriate DCFS staff. The case plan must include when siblings will be reassessed to determine if they can be reunited at a later point in time, and, if the reassessment determines reunification is appropriate, the plan for sibling reunification. The Division shall ensure that the reasons for the separation of siblings, or infants with minor mothers, into different foster homes are regularly reassessed and targeted recruitment efforts continue to reunite the siblings.

Children in DHS custody may have an opportunity to visit with grandparents or great grandparents provided the visits are in the best interest of the children.

If it is in the child's best interest, visits between siblings and with relatives may continue after Termination of Parental Rights (TPR), if visitation was established prior to TPR. Visitation after TPR will continue until an adoption placement is made or the Out-of-Home placement case is closed. Continuation of visits with relatives does not include the parents for whom the agency has obtained TPR.

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06/2015

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POLICY VIII-L: SUBSIDIZED GUARDIANSHIP

069/20153

OVERVIEW

For children for whom a permanency goal of guardianship with a relative has been established, the Division offers a federal (title IV-E) Subsidized Guardianship Program to further promote permanency for those children (provided subsidized guardianship eligibility criteria are met). Any non-IV-E eligible child may enter into a subsidized guardianship supported by Arkansas State General Revenue if the Department determines that adequate funding is available and all other Subsidized Guardianship Program criteria are met. The monthly subsidized guardianship payment shall be used to help relative guardian(s) defray some costs of caring for the child's needs.

During permanency planning staffings guardianship should be explored as a potential permanency option. If it is determined at the permanency planning hearing that a guardianship arrangement with relatives is in the child's best interest and the child's permanency goal is changed to legal guardianship, the Division shall then determine if a specific guardianship arrangement may be supported by a subsidy through the Division's Subsidized Guardianship Program. Only relative guardians may apply for a guardianship subsidy. Relative is defined as a person within the fifth degree of kinship by virtue of blood or adoption (A.C.A. § 9-28-108). The fifth degree is calculated according to the child.

When it is in the best interest of each of the children, the Division shall attempt to place siblings together in the same guardianship arrangement. Siblings may be related by biological, marital, or legal ties. A child who meets the eligibility criteria for a subsidized guardianship will qualify his or her siblings for subsidized guardianship as well provided the siblings are placed in the same relative home. The child who qualifies for a guardianship subsidy does not necessarily have to be placed at the same time as his or her siblings in the relative home. The guardianships for each child in the same relative home do not need to be finalized in any particular sequence.

ELIGIBILITY CRITERIA FOR SUBSIDIZED GUARDIANSHIP

A child is eligible for a subsidized guardianship in Arkansas if the Division determines that:

- A. The child has been removed from his or her home pursuant to a judicial determination that continuation in the home would be contrary to the welfare of the child and, as such, the child has been placed in DHS custody per judicial order;
- B. The child has resided for at least six consecutive months in the fully approved foster home of the prospective relative guardian(s) which is eligible to receive payments on behalf of the child (i.e., the prospective relative guardian's home is no longer a provisional foster home and has been serving as a fully approved foster home to the child seeking a legal guardianship arrangement for at least six consecutive months) (see POLICY VII: Development of Foster Homes). Any disruption in placement with the prospective relative guardian that is less than 14 days will not affect the six consecutive month qualifying period;
- C. Being returned home to the person from whom he or she was removed or being adopted are not appropriate permanency options for the child, the guardianship arrangement is in the child's best interest, and documentation supporting these determinations is provided;
- D. The child demonstrates a strong attachment to the prospective relative guardian(s) and the guardian(s) has a strong commitment to caring permanently for the child/youth;
- E. Each child is consulted regarding the guardianship arrangement; and,
- F. Youth 12 and older sign a consent to guardianship if he or she agrees to the guardianship arrangement, and it is agreed that procedures to finalize the guardianship should be initiated (unless the court determines it is in the minor's best interest to dispense with the minor's consent).

CASE PLAN REQUIREMENTS FOR SUBSIDIZED GUARDIANSHIP

If legal guardianship with a relative is the intended permanency goal for a child and the relative guardian(s) intend to apply for a guardianship subsidy, the child's case plan shall include a description of the ways in which the child meets the eligibility requirements for a subsidized guardianship arrangement to include:

- A. The steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;
- B. The reasons for any separation of siblings during placement and description of the efforts made to place currently separated siblings together, the efforts made to provide frequent visitation or other ongoing interaction between siblings; and efforts to reunify separated siblings;
- C. The reasons why a permanent placement with an appropriate and willing relative supported by a subsidized guardianship arrangement is in the child's best interest;
- D. The efforts that the Division has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons;
- E. The efforts made by the Division to discuss with the child's parent(s) the guardianship arrangement; or the reasons why the efforts were not made;
- F. The process in place to allow for a successor guardian in the event that the relative guardian of the child dies or is no longer able to care for the child; and,
- G. Any appropriate transitional youth services for those youth who exit foster care and enter into a guardianship arrangement supported by a subsidy after the age of 16.

SUBSIDIZED GUARDIANSHIP PAYMENTS

The Division will provide subsidized guardianship payments on behalf of eligible children and their siblings (when placed in the same relative home) to approved relatives who assume legal guardianship of the youth for whom they have cared as fully approved foster parents. Subsidized guardianship payments cannot be made prior to the transfer of guardianship. The prospective relative guardians will receive foster care board payments until the transfer of guardianship occurs.

For an eligible child entering a subsidized guardianship arrangement prior to reaching the age of 16 (and their siblings placed in the same home prior to the age of 16), the subsidized guardianship payment will cease when the child reaches the age of 18.

Any eligible child in foster care entering a subsidized guardianship arrangement at the age of 16 or older (and his or her siblings in the same home at 16 or older) is eligible for subsidized guardianship until he or she reaches 21 years of age provided at least one of the following criteria are met:

- A. The child is completing secondary education or a program leading to an equivalent credential; or,
- B. The child is enrolled in an institution which provides post-secondary or vocational education; or,
- C. The child is participating in a program or activity designed to promote, or remove barriers to, employment; or,
- D. The child is employed for at least 80 hours per month; or,
- E. The child is incapable of doing any of the above described activities due to a medical condition.

In addition, guardianship subsidy payments may also continue for a child up to the age of 21 if the State determines that the child has a mental or physical handicap which warrants the continuation of assistance.

The Division will ensure that the relatives receiving a subsidized guardianship payment on behalf of a child past the age of 18 provide documentation annually that the child meets the employment or education requirements

listed above up to the age of 21. If a child is incapable of meeting the above referenced education or employment requirements due to a medical condition or has a mental or physical handicap(s), the reason for which the child is incapable of meeting the education or employment requirements must be documented by a medical professional and updated annually until the child reaches 21 years of age.

When siblings are placed together in a subsidized guardianship arrangement, the subsidized guardianship payments will be paid on behalf of each of the siblings. The sibling of a child eligible for subsidized guardianship does not need to meet any subsidized guardianship eligibility requirements him or herself.

When determining the amount of each subsidized guardianship payment the following shall be considered:

- A. The needs of the child as supported by accompanying documentation (the rate should not be linked to the means of the prospective relative guardians);
- B. The subsidized guardianship payment shall not exceed the foster care board payment that would have been paid on that child's behalf if he or she had remained in a foster family home. Any child receiving a subsidized guardianship payment may have his or her guardianship subsidy adjusted per Arkansas rate structure based on the child's age or the child's special needs. The subsidy shall not be greater than the amount which the child would have received had the child remained in a foster family home.
- C. The relative guardians may not draw both an SSI payment and a subsidized guardianship payment. The relatives shall determine which form of assistance best meets the needs of the child.
- D. The relative guardians may draw both a Title II SSA payment and a subsidized guardianship payment but the total amount of the combined payments may not exceed the child's foster care board payment.
- E. Any conserved funds in a child's trust account shall not affect a child's subsidized guardianship eligibility or payments. However, the DCFS Eligibility Unit shall close any trust account(s) when a child exits care. The administering agency of the trust account will redistribute the funds per its respective regulations after any board payments, contract reimbursements, and/or overpayments are deducted from the account balance prior to close out.

In addition to the monthly subsidized guardianship payments, approved relative guardian(s) of a child eligible for the Subsidized Guardianship Program will also receive funding for the total cost of non-recurring expenses related to obtaining legal guardianship up to \$2,000 per child. The majority of legal services should be provided by the DHS Office of Policy and Legal Services (OPLS) which would not incur legal fees upon the relative guardians.

The relative guardian(s) are required to inform the Division of circumstances that would make them ineligible for subsidized guardianship payments or eligible for payments in a different amount (e.g., if the child becomes eligible for and begins receiving SSA payments). The relative guardian(s) must also notify the Division of any change of address. Any subsidized guardianship payment will remain in effect without regard to the State of residence of the relative guardian(s).

MEDICAL COVERAGE FOR SUBSIDIZED GUARDIANSHIP ARRANGEMENTS

The Division will ensure health insurance coverage under Medicaid Title XIX for any IV-E eligible child (and their IV-E eligible siblings when placed in the same relative home) who receives a subsidized guardianship payment as the child must be eligible for and receiving IV-E guardianship subsidy payments in order to be categorically eligible for Medicaid. The subsidized guardianship agreement will indicate Medicaid coverage for IV-E eligible children.

A non-IV-E eligible child may qualify for certain Medicaid categories depending on the needs of the child. The relative guardian of a non-IV-E eligible child may apply for health insurance (e.g., AR Kids First) for the child through their local DHS county office. Coverage through the local DHS county office is not guaranteed and may only extend until the time the child reaches 19 years of age.

SUBSIDIZED GUARDIANSHIP PROGRAM DETERMINATION

The child's permanency planning staffing shall be the forum in which the determination regarding whether a guardianship arrangement is in the child's best interest (and his or her siblings if applicable).

If the child's permanency planning hearing results in a permanency goal of a legal guardianship with a specific relative, the Division shall then determine if the child (and his or her siblings if applicable) and prospective relative guardian(s) may qualify for a subsidized guardianship. If the child's FSW believes the child and relative guardians may qualify based on the subsidized guardianship eligibility and case plan criteria, he or she will make a referral to the DCFS Permanency Specialist or designee.

If the DCFS Permanency Specialist or designee agrees that the family is a candidate for subsidized guardianship, a family-centered subsidized guardianship determination meeting will be held. The purpose of the meeting is to explain the Subsidized Guardianship Program to the prospective relative guardian(s) and ensure that eligibility and case plan criteria for the program are met. The DCFS Permanency Specialist or designee will facilitate the family-centered subsidized guardianship determination meetings.

If it is determined that all Subsidized Guardianship Program eligibility and case plan criteria are satisfied, the decision shall be relayed to the Subsidized Guardianship Oversight Committee via the DCFS Permanency Specialist or designee. The Subsidized Guardianship Oversight Committee serves as an auditing entity to ensure all eligibility and case plan requirements have been met.

The Subsidized Guardianship Oversight Committee shall include, but is not limited to:

- A. DCFS Permanency Specialist or designee
- B. DCFS Foster Care Manager or designee
- C. DCFS Adoption Manager or designee
- D. DCFS Director or designee in cases involving special subsidy requests

If the Subsidized Guardianship Oversight Committee verifies that all Subsidized Guardianship Program eligibility and case plan criteria have been met, DHS may then petition the court for a guardianship hearing to finalize the guardianship and subsidized guardianship agreement.

SUBSIDIZED GUARDIANSHIP AGREEMENT

Once guardianship with a specific relative has been established as the child's permanency goal and then after the Division has determined that the guardianship may be supported by a guardianship subsidy, the family and the Division will finalize the subsidized guardianship agreement. A subsidized guardianship agreement, a written, binding agreement negotiated between the relative guardian(s), the Division and other relevant agencies, must be in place prior to the finalization of the legal guardianship supported by a subsidy. The prospective relative guardian(s) shall receive a copy of the agreement.

The subsidized guardianship agreement will specify:

- A. The amount of, and manner in which, each subsidized guardianship payment will be provided under the agreement (subsidized guardianship payment should not exceed the amount of the child's foster care board payment unless special circumstances related to the child's care warrant a special subsidy rate);
- B. That (and the manner in which) the payment may be adjusted periodically, in consultation with the relative guardian(s), based on the circumstances of the relative guardian and the needs of the child;
- C. The additional services and assistance that the child and relative guardian(s) will be eligible for under the agreement including Medicaid coverage that may be available through the DCFS Eligibility Unit or, in the case of non-IV-E children, through the local DHS county office;
- D. The procedure by which the relative guardian(s) may apply for additional services needed;
- E. That the Division will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child/youth up to \$2,000;

- F. That the child shall retain eligibility for federal adoption assistance payments under Title IV-E, provided he or she was eligible when the subsidized guardianship agreement was negotiated, if the guardian later decides to adopt the child;
- G. That the agreement will become effective upon the entering of a court order granting guardianship of the child to the guardian(s);
- H. That the agreement shall remain in effect without regard to State residency of the relative guardian;
- I. That the relative guardian(s) are required to respond to annual review requests from the Division;
- J. That OPLS will file an annual report with the court;
- K. A designated successor guardian, if desired, for the child in the event that the current relative guardian is no longer able to fulfill guardianship responsibilities. A successor guardian and all household members within that individual's home must clear any applicable Child Maltreatment Central Registry Checks, State Police Criminal Record Checks, and a Vehicle Safety Check before being identified as a potential successor guardian in the subsidized guardianship agreement. Subsidized guardianship assistance payments will continue to the successor guardian if the relative guardian dies or is incapacitated and a successor guardian was named in the subsidized guardianship agreement (or any amendments to the agreement) with the initial relative guardian.

~~Identification of a successor guardian in the subsidized guardianship agreement will not guarantee an automatic transfer of guardianship in the event that the current relative guardian is no longer able to fulfill guardianship responsibilities. In order for the successor guardian to assume guardianship, he or she must follow all policies and procedures regarding subsidized guardianship arrangements. This includes becoming an approved DCFS foster home placement for the child (if appropriate at that point in time) prior to exploring legal guardianship supported by a guardianship subsidy as a permanency option. However in addition, the child must also continue to meet all subsidized guardianship eligibility criteria in order to move forward with requesting a subsidized guardianship arrangement with the identified successor guardian.~~

ANNUAL PROGRESS REPORT and REVIEW of SUBSIDIZED GUARDIANSHIP AGREEMENT

An annual progress report and review of the subsidized guardianship agreement are required annually in order for the subsidized guardianship and subsidized guardianship payments of any amount or payment rate to continue. The progress report and review shall be conducted by the Division of Family Services (DCFS) Permanency Specialist or designee while the Office of Policy and Legal Services shall file the annual progress report with the court. An accounting of the guardianship subsidy is not required. Documentation of continued eligibility is required for the review. The subsidized guardianship payments granted at the time of review will reflect the child's current, documented level of need.

REVISION OR TERMINATION of SUBSIDIZED GUARDIANSHIP AGREEMENT

Revisions to the subsidized guardianship agreement and/or payments may be requested any time there is a significant change in the child's circumstance and the relative guardian can provide the required and/or requested documentation. To request a revision to the subsidized guardianship agreement and/or payments, the family shall contact the DCFS Permanency Specialist or designee.

The subsidized guardianship agreement and, consequently the subsidized guardianship payments, shall be revised or terminated as appropriate:

- A. If the child is absent from the relative guardian home for more than 14 days in a month (in such an event, the child will be eligible for only a portion of the month that he or she was in the relative guardian home) excluding when a child 18 or older lives in an approved independent living situation outside of the home (e.g., college dorm); or,
- B. When the terms of the subsidized guardianship agreement are fulfilled; or,

- C. If the child begins receiving SSI, SSA, or any other source of income excluding any income that the child may earn from his or her own employment (the relative guardian is responsible for notifying the Division if the child begins receiving other sources of income);
- D. If the child has attained the age of 18 for those who entered into the subsidized guardianship arrangement prior to the age of 16; or,
- E. If the child has attained the age of 21 for those who entered into the subsidized guardianship arrangement at the age of 16 or older; or,
- F. If the child who has an extended subsidy (i.e., up to age 21) does not meet the education or employment conditions outlined above in the Subsidized Guardianship Payments section; or,
- G. If the child who has extended subsidy (i.e., up to age 21) is no longer determined to have a mental or physical handicap which warrants the continuation of assistance; or,
- H. If the child who has an extended subsidy (i.e., up to the age of 21), upon reaching the age of 18 years or older requests the guardianship be terminated; or,
- I. If the child becomes an emancipated minor; or,
- J. If the child marries; or,
- K. If the child enlists in the military; or,
- L. If the relative guardian(s) are no longer legally or financially responsible for the support of the child; or,
- M. If the guardian(s) die; or,
- N. If the guardianship is vacated; or,
- O. If the child dies.

Subsidized guardianship payments may continue to be paid on behalf of the child if the child moves out of the relative guardian's home or otherwise lives independently of the guardian(s) as long as the guardian(s) continue to provide support to the child.

If a child whose relatives are receiving subsidized guardianship payments on his or her behalf re-enters DHS custody, the subsidized guardianship agreement will be terminated until such time that the child is reunified with the relative guardian(s), or, in certain cases until such time that a legal guardianship with the successor guardian is determined to be in the child's best interest, it is determined that the child and successor guardian qualify for a subsidized guardianship, and a new subsidized guardianship agreement with the successor guardian is finalized. A successor guardian is not entitled to any payments that would have been made to the initial guardian during the time a child spends in DHS custody. The successor guardian may only receive subsidized guardianship payments once the court has formally appointed the successor guardian as the child's legal guardian and the subsidized guardianship agreement is in effect.

APPEALS

Relative guardian(s) may appeal the Division's decision to deny, terminate, or modify their child's subsidized guardianship agreement and/or payments in accordance with the rules and procedures of the State's fair hearing and appeal process per DHS Policy 1098. The relative guardian(s) must appeal an adverse decision within thirty (30) calendar days of written notice of the adverse action. Subsidized guardianship payments will be suspended pending the determination of all appeals. Families receiving a favorable ruling in their hearing may be entitled to assistance (back payment) that had been suspended.

The child would only be eligible for title IV-E subsidized guardianship if all eligibility criteria had been met prior to the finalization of the guardianship (including executing a subsidized guardianship agreement). Therefore, even if the Office of Hearings and Appeals orders DCFS to provide subsidized guardianship payments and services for the child, the State shall not claim FFP under title IV-E if a subsidized guardianship agreement was not in place prior to the guardianship.

PROCEDURE VIII-L8: Placement with Successor Guardian

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If a child whose relatives are receiving a guardianship subsidy on his or her behalf re-enters DHS custody, the Area Director or designee will:

- A. Notify the DCFS Permanency Specialist that the child has re-entered care.
- B. Consult with the DCFS Permanency Specialist or designee and appropriate FSW supervisor as to whether:
 - 1) It is appropriate for the child to work toward reunification with the initial relative guardians; or,
 - 2) If guardianship with the successor guardian is in the child's best interest and, if so, if the identified successor guardian and child meet requirements the eligibility criteria for the Subsidized Guardianship Program; or,
 - 3) If another permanency option is more appropriate.
- C. If a subsidized guardianship arrangement with the successor guardian is determined to be appropriate, assign the appropriate Resource Worker to open the successor guardian's home as a provisional foster home per Policy VII: Development of Foster Homes.
- D. If the successor guardian is determined not be an appropriate placement at that point in time, have the assigned FSW find an appropriate approved or licensed placement for the child per A.C.A. § 9-28-402.

The Resource Worker will:

- A. If notified by the Area Director or designee, open the successor guardian's home as a provisional foster home per Policy VII: Development of Foster Homes.
- B. Collaborate with the FSW to evaluate:
 - 1) How the other children and adults in the home will affect the successful development of the child; and,
 - 2) How the child will impact the other members of the home.
- C. Support the relative throughout the process of becoming a provisional and regular DCFS foster home.
- D. If and when legal guardianship is granted to the successor guardian, end date the Foster Family Service on the Provider Service Tab selecting the appropriate Reason for End Date in CHRIS noting in the comment box on the Provider Services Tab that home was closed due to the parent(s) assuming legal guardianship of the child supported by a guardianship subsidy.

The FSW Supervisor will:

- A. Consult with the FSW, Area Director, and DCFS Permanency Specialist as to whether a subsidized guardianship arrangement with the initial relative guardians (i.e., reunification) or with the successor guardian is in the child's best interest or if another permanency option is more appropriate.
- B. Conference with the FSW on decisions regarding the child.

The FSW will:

- A. Consult with the FSW Supervisor, Area Director and DCFS Permanency Specialist as to whether a subsidized guardianship arrangement with the initial relative guardians (i.e., reunification) or the successor guardian is in the child's best interest or if another permanency option is more appropriate.
- B. If appropriate, request that the OPLS attorney petition the court for a permanency planning hearing to review the child's case plan goal of legal guardianship supported by a guardianship subsidy with the successor guardian.
- C. Follow Procedure VIII-L5: Subsidized Guardianship Agreement Finalization and Procedure VIII-L6: Guardianship Hearing for Subsidized Guardianship.

The DCFS Permanency Specialist or designee will:

- A. Consult with the FSW, FSW Supervisor, and Area Director as to whether a subsidized guardianship arrangement with the initial relative guardians (i.e., reunification) or the successor guardian is in the child's best interest or if another permanency option is more appropriate.
- B. Follow Procedure VIII-L5: Subsidized Guardianship Agreement Finalization, Procedure VIII-L6: Guardianship Hearing for Subsidized Guardianship and VIII-L7: Annual Subsidized Guardianship Program Review as appropriate.

MARKUP

POLICY VIII-L: SUBSIDIZED GUARDIANSHIP

06/2015

OVERVIEW

For children for whom a permanency goal of guardianship with a relative has been established, the Division offers a federal (title IV-E) Subsidized Guardianship Program to further promote permanency for those children (provided subsidized guardianship eligibility criteria are met). Any non-IV-E eligible child may enter into a subsidized guardianship supported by Arkansas State General Revenue if the Department determines that adequate funding is available and all other Subsidized Guardianship Program criteria are met. The monthly subsidized guardianship payment shall be used to help relative guardian(s) defray some costs of caring for the child's needs.

During permanency planning staffings guardianship should be explored as a potential permanency option. If it is determined at the permanency planning hearing that a guardianship arrangement with relatives is in the child's best interest and the child's permanency goal is changed to legal guardianship, the Division shall then determine if a specific guardianship arrangement may be supported by a subsidy through the Division's Subsidized Guardianship Program. Only relative guardians may apply for a guardianship subsidy. Relative is defined as a person within the fifth degree of kinship by virtue of blood or adoption (A.C.A. § 9-28-108). The fifth degree is calculated according to the child.

When it is in the best interest of each of the children, the Division shall attempt to place siblings together in the same guardianship arrangement. Siblings may be related by biological, marital, or legal ties. A child who meets the eligibility criteria for a subsidized guardianship will qualify his or her siblings for subsidized guardianship as well provided the siblings are placed in the same relative home. The child who qualifies for a guardianship subsidy does not necessarily have to be placed at the same time as his or her siblings in the relative home. The guardianships for each child in the same relative home do not need to be finalized in any particular sequence.

ELIGIBILITY CRITERIA FOR SUBSIDIZED GUARDIANSHIP

A child is eligible for a subsidized guardianship in Arkansas if the Division determines that:

- A. The child has been removed from his or her home pursuant to a judicial determination that continuation in the home would be contrary to the welfare of the child and, as such, the child has been placed in DHS custody per judicial order;
- B. The child has resided for at least six consecutive months in the fully approved foster home of the prospective relative guardian(s) which is eligible to receive payments on behalf of the child (i.e., the prospective relative guardian's home is no longer a provisional foster home and has been serving as a fully approved foster home to the child seeking a legal guardianship arrangement for at least six consecutive months) (see POLICY VII: Development of Foster Homes). Any disruption in placement with the prospective relative guardian that is less than 14 days will not affect the six consecutive month qualifying period;
- C. Being returned home to the person from whom he or she was removed or being adopted are not appropriate permanency options for the child, the guardianship arrangement is in the child's best interest, and documentation supporting these determinations is provided;
- D. The child demonstrates a strong attachment to the prospective relative guardian(s) and the guardian(s) has a strong commitment to caring permanently for the child/youth;
- E. Each child is consulted regarding the guardianship arrangement; and,
- F. Youth 12 and older sign a consent to guardianship if he or she agrees to the guardianship arrangement, and it is agreed that procedures to finalize the guardianship should be initiated (unless the court determines it is in the minor's best interest to dispense with the minor's consent).

CASE PLAN REQUIREMENTS FOR SUBSIDIZED GUARDIANSHIP

If legal guardianship with a relative is the intended permanency goal for a child and the relative guardian(s) intend to apply for a guardianship subsidy, the child's case plan shall include a description of the ways in which the child meets the eligibility requirements for a subsidized guardianship arrangement to include:

- A. The steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;
- B. The reasons for any separation of siblings during placement and description of the efforts made to place currently separated siblings together, the efforts made to provide frequent visitation or other ongoing interaction between siblings; and efforts to reunify separated siblings;
- C. The reasons why a permanent placement with an appropriate and willing relative supported by a subsidized guardianship arrangement is in the child's best interest;
- D. The efforts that the Division has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons;
- E. The efforts made by the Division to discuss with the child's parent(s) the guardianship arrangement; or the reasons why the efforts were not made;
- F. The process in place to allow for a successor guardian in the event that the relative guardian of the child dies or is no longer able to care for the child; and,
- G. Any appropriate transitional youth services for those youth who exit foster care and enter into a guardianship arrangement supported by a subsidy after the age of 16.

SUBSIDIZED GUARDIANSHIP PAYMENTS

The Division will provide subsidized guardianship payments on behalf of eligible children and their siblings (when placed in the same relative home) to approved relatives who assume legal guardianship of the youth for whom they have cared as fully approved foster parents. Subsidized guardianship payments cannot be made prior to the transfer of guardianship. The prospective relative guardians will receive foster care board payments until the transfer of guardianship occurs.

For an eligible child entering a subsidized guardianship arrangement prior to reaching the age of 16 (and their siblings placed in the same home prior to the age of 16), the subsidized guardianship payment will cease when the child reaches the age of 18.

Any eligible child in foster care entering a subsidized guardianship arrangement at the age of 16 or older (and his or her siblings in the same home at 16 or older) is eligible for subsidized guardianship until he or she reaches 21 years of age provided at least one of the following criteria are met:

- A. The child is completing secondary education or a program leading to an equivalent credential; or,
- B. The child is enrolled in an institution which provides post-secondary or vocational education; or,
- C. The child is participating in a program or activity designed to promote, or remove barriers to, employment; or,
- D. The child is employed for at least 80 hours per month; or,
- E. The child is incapable of doing any of the above described activities due to a medical condition.

In addition, guardianship subsidy payments may also continue for a child up to the age of 21 if the State determines that the child has a mental or physical handicap which warrants the continuation of assistance.

The Division will ensure that the relatives receiving a subsidized guardianship payment on behalf of a child past the age of 18 provide documentation annually that the child meets the employment or education requirements

listed above up to the age of 21. If a child is incapable of meeting the above referenced education or employment requirements due to a medical condition or has a mental or physical handicap(s), the reason for which the child is incapable of meeting the education or employment requirements must be documented by a medical professional and updated annually until the child reaches 21 years of age.

When siblings are placed together in a subsidized guardianship arrangement, the subsidized guardianship payments will be paid on behalf of each of the siblings. The sibling of a child eligible for subsidized guardianship does not need to meet any subsidized guardianship eligibility requirements him or herself.

When determining the amount of each subsidized guardianship payment the following shall be considered:

- A. The needs of the child as supported by accompanying documentation (the rate should not be linked to the means of the prospective relative guardians);
- B. The subsidized guardianship payment shall not exceed the foster care board payment that would have been paid on that child's behalf if he or she had remained in a foster family home. Any child receiving a subsidized guardianship payment may have his or her guardianship subsidy adjusted per Arkansas rate structure based on the child's age or the child's special needs. The subsidy shall not be greater than the amount which the child would have received had the child remained in a foster family home.
- C. The relative guardians may not draw both an SSI payment and a subsidized guardianship payment. The relatives shall determine which form of assistance best meets the needs of the child.
- D. The relative guardians may draw both a Title II SSA payment and a subsidized guardianship payment but the total amount of the combined payments may not exceed the child's foster care board payment.
- E. Any conserved funds in a child's trust account shall not affect a child's subsidized guardianship eligibility or payments. However, the DCFS Eligibility Unit shall close any trust account(s) when a child exits care. The administering agency of the trust account will redistribute the funds per its respective regulations after any board payments, contract reimbursements, and/or overpayments are deducted from the account balance prior to close out.

In addition to the monthly subsidized guardianship payments, approved relative guardian(s) of a child eligible for the Subsidized Guardianship Program will also receive funding for the total cost of non-recurring expenses related to obtaining legal guardianship up to \$2,000 per child. The majority of legal services should be provided by the DHS Office of Policy and Legal Services (OPLS) which would not incur legal fees upon the relative guardians.

The relative guardian(s) are required to inform the Division of circumstances that would make them ineligible for subsidized guardianship payments or eligible for payments in a different amount (e.g., if the child becomes eligible for and begins receiving SSA payments). The relative guardian(s) must also notify the Division of any change of address. Any subsidized guardianship payment will remain in effect without regard to the State of residence of the relative guardian(s).

MEDICAL COVERAGE FOR SUBSIDIZED GUARDIANSHIP ARRANGEMENTS

The Division will ensure health insurance coverage under Medicaid Title XIX for any IV-E eligible child (and their IV-E eligible siblings when placed in the same relative home) who receives a subsidized guardianship payment as the child must be eligible for and receiving IV-E guardianship subsidy payments in order to be categorically eligible for Medicaid. The subsidized guardianship agreement will indicate Medicaid coverage for IV-E eligible children.

A non-IV-E eligible child may qualify for certain Medicaid categories depending on the needs of the child. The relative guardian of a non-IV-E eligible child may apply for health insurance (e.g., AR Kids First) for the child through their local DHS county office. Coverage through the local DHS county office is not guaranteed and may only extend until the time the child reaches 19 years of age.

SUBSIDIZED GUARDIANSHIP PROGRAM DETERMINATION

The child's permanency planning staffing shall be the forum in which the determination regarding whether a guardianship arrangement is in the child's best interest (and his or her siblings if applicable).

If the child's permanency planning hearing results in a permanency goal of a legal guardianship with a specific relative, the Division shall then determine if the child (and his or her siblings if applicable) and prospective relative guardian(s) may qualify for a subsidized guardianship. If the child's FSW believes the child and relative guardians may qualify based on the subsidized guardianship eligibility and case plan criteria, he or she will make a referral to the DCFS Permanency Specialist or designee.

If the DCFS Permanency Specialist or designee agrees that the family is a candidate for subsidized guardianship, a family-centered subsidized guardianship determination meeting will be held. The purpose of the meeting is to explain the Subsidized Guardianship Program to the prospective relative guardian(s) and ensure that eligibility and case plan criteria for the program are met. The DCFS Permanency Specialist or designee will facilitate the family-centered subsidized guardianship determination meetings.

If it is determined that all Subsidized Guardianship Program eligibility and case plan criteria are satisfied, the decision shall be relayed to the Subsidized Guardianship Oversight Committee via the DCFS Permanency Specialist or designee. The Subsidized Guardianship Oversight Committee serves as an auditing entity to ensure all eligibility and case plan requirements have been met.

The Subsidized Guardianship Oversight Committee shall include, but is not limited to:

- A. DCFS Permanency Specialist or designee
- B. DCFS Foster Care Manager or designee
- C. DCFS Adoption Manager or designee
- D. DCFS Director or designee in cases involving special subsidy requests

If the Subsidized Guardianship Oversight Committee verifies that all Subsidized Guardianship Program eligibility and case plan criteria have been met, DHS may then petition the court for a guardianship hearing to finalize the guardianship and subsidized guardianship agreement.

SUBSIDIZED GUARDIANSHIP AGREEMENT

Once guardianship with a specific relative has been established as the child's permanency goal and then after the Division has determined that the guardianship may be supported by a guardianship subsidy, the family and the Division will finalize the subsidized guardianship agreement. A subsidized guardianship agreement, a written, binding agreement negotiated between the relative guardian(s), the Division and other relevant agencies, must be in place prior to the finalization of the legal guardianship supported by a subsidy. The prospective relative guardian(s) shall receive a copy of the agreement.

The subsidized guardianship agreement will specify:

- A. The amount of, and manner in which, each subsidized guardianship payment will be provided under the agreement (subsidized guardianship payment should not exceed the amount of the child's foster care board payment unless special circumstances related to the child's care warrant a special subsidy rate);
- B. That (and the manner in which) the payment may be adjusted periodically, in consultation with the relative guardian(s), based on the circumstances of the relative guardian and the needs of the child;
- C. The additional services and assistance that the child and relative guardian(s) will be eligible for under the agreement including Medicaid coverage that may be available through the DCFS Eligibility Unit or, in the case of non-IV-E children, through the local DHS county office;
- D. The procedure by which the relative guardian(s) may apply for additional services needed;
- E. That the Division will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child/youth up to \$2,000;

- F. That the child shall retain eligibility for federal adoption assistance payments under Title IV-E, provided he or she was eligible when the subsidized guardianship agreement was negotiated, if the guardian later decides to adopt the child;
- G. That the agreement will become effective upon the entering of a court order granting guardianship of the child to the guardian(s);
- H. That the agreement shall remain in effect without regard to State residency of the relative guardian;
- I. That the relative guardian(s) are required to respond to annual review requests from the Division;
- J. That OPLS will file an annual report with the court;
- K. A designated successor guardian, if desired, for the child in the event that the current relative guardian is no longer able to fulfill guardianship responsibilities. A successor guardian and all household members within that individual's home must clear any applicable Child Maltreatment Central Registry Checks, State Police Criminal Record Checks, and a Vehicle Safety Check before being identified as a potential successor guardian in the subsidized guardianship agreement. Subsidized guardianship assistance payments will continue to the successor guardian if the relative guardian dies or is incapacitated and a successor guardian was named in the subsidized guardianship agreement (or any amendments to the agreement) with the initial relative guardian.

However, the child must also continue to meet all subsidized guardianship eligibility criteria in order to move forward with a subsidized guardianship arrangement with the identified successor guardian.

ANNUAL PROGRESS REPORT and REVIEW of SUBSIDIZED GUARDIANSHIP AGREEMENT

An annual progress report and review of the subsidized guardianship agreement are required annually in order for the subsidized guardianship and subsidized guardianship payments of any amount or payment rate to continue. The progress report and review shall be conducted by the Division of Family Services (DCFS) Permanency Specialist or designee while the Office of Policy and Legal Services shall file the annual progress report with the court. An accounting of the guardianship subsidy is not required. Documentation of continued eligibility is required for the review. The subsidized guardianship payments granted at the time of review will reflect the child's current, documented level of need.

REVISION OR TERMINATION of SUBSIDIZED GUARDIANSHIP AGREEMENT

Revisions to the subsidized guardianship agreement and/or payments may be requested any time there is a significant change in the child's circumstance and the relative guardian can provide the required and/or requested documentation. To request a revision to the subsidized guardianship agreement and/or payments, the family shall contact the DCFS Permanency Specialist or designee.

The subsidized guardianship agreement and, consequently the subsidized guardianship payments, shall be revised or terminated as appropriate:

- A. If the child is absent from the relative guardian home for more than 14 days in a month (in such an event, the child will be eligible for only a portion of the month that he or she was in the relative guardian home) excluding when a child 18 or older lives in an approved independent living situation outside of the home (e.g., college dorm); or,
- B. When the terms of the subsidized guardianship agreement are fulfilled; or,
- C. If the child begins receiving SSI, SSA, or any other source of income excluding any income that the child may earn from his or her own employment (the relative guardian is responsible for notifying the Division if the child begins receiving other sources of income);
- D. If the child has attained the age of 18 for those who entered into the subsidized guardianship arrangement prior to the age of 16; or,
- E. If the child has attained the age of 21 for those who entered into the subsidized guardianship arrangement at the age of 16 or older; or,

- F. If the child who has an extended subsidy (i.e., up to age 21) does not meet the education or employment conditions outlined above in the Subsidized Guardianship Payments section; or,
- G. If the child who has extended subsidy (i.e., up to age 21) is no longer determined to have a mental or physical handicap which warrants the continuation of assistance; or,
- H. If the child who has an extended subsidy (i.e., up to the age of 21), upon reaching the age of 18 years or older requests the guardianship be terminated; or,
- I. If the child becomes an emancipated minor; or,
- J. If the child marries; or,
- K. If the child enlists in the military; or,
- L. If the relative guardian(s) are no longer legally or financially responsible for the support of the child; or,
- M. If the guardian(s) die; or,
- N. If the guardianship is vacated; or,
- O. If the child dies.

Subsidized guardianship payments may continue to be paid on behalf of the child if the child moves out of the relative guardian's home or otherwise lives independently of the guardian(s) as long as the guardian(s) continue to provide support to the child.

If a child whose relatives are receiving subsidized guardianship payments on his or her behalf re-enters DHS custody, the subsidized guardianship agreement will be terminated until such time that the child is reunified with the relative guardian(s), or, in certain cases until such time that a legal guardianship with the successor guardian is determined to be in the child's best interest, it is determined that the child and successor guardian qualify for a subsidized guardianship, and a new subsidized guardianship agreement with the successor guardian is finalized. A successor guardian is not entitled to any payments that would have been made to the initial guardian during the time a child spends in DHS custody. The successor guardian may only receive subsidized guardianship payments once the court has formally appointed the successor guardian as the child's legal guardian and the subsidized guardianship agreement is in effect.

APPEALS

Relative guardian(s) may appeal the Division's decision to deny, terminate, or modify their child's subsidized guardianship agreement and/or payments in accordance with the rules and procedures of the State's fair hearing and appeal process per DHS Policy 1098. The relative guardian(s) must appeal an adverse decision within thirty (30) calendar days of written notice of the adverse action. Subsidized guardianship payments will be suspended pending the determination of all appeals. Families receiving a favorable ruling in their hearing may be entitled to assistance (back payment) that had been suspended.

The child would only be eligible for title IV-E subsidized guardianship if all eligibility criteria had been met prior to the finalization of the guardianship (including executing a subsidized guardianship agreement). Therefore, even if the Office of Hearings and Appeals orders DCFS to provide subsidized guardianship payments and services for the child, the State shall not claim FFP under title IV-E if a subsidized guardianship agreement was not in place prior to the guardianship.