



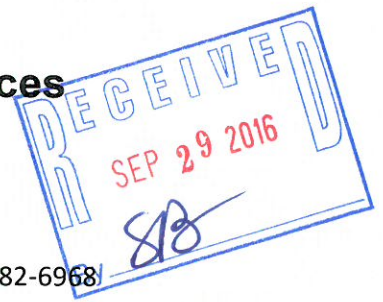
**Arkansas Department of Human Services
Division of Children and Family Services**

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P.O. Box 1437, Slot S560

Little Rock, Arkansas 72203-1437

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



September 29, 2016

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 September 29, 2016 to October 28, 2016, with a proposed effective date of January 1, 2017.

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, Assistant Director, Division of Children and Family Services, P.O. Box 1437, (Slot S570), Little Rock, Arkansas 72203-1437; phone 682-8541; email christin.harper@dhs.arkansas.gov or fax 682-6968.

Sincerely,

A handwritten signature in black ink that reads "Mischa Martin".

Mischa Martin

Director, Division of Children and Family Services

BUREAU OF LEGISLATIVE RESEARCH

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

TITLE: **New Rule**
• **POLICY VII-N: Child Missing from an Out-of-Home Placement and related procedures:**

Rescinded Rule
• **PROCEDURE VII-L4: When a Child in Foster Care Runs Away**

PROPOSED EFFECTIVE DATE: January 1, 2017

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


NECESSITY AND FUNCTION: **New Rule**

- **POLICY VII-N: and related procedures**
 - To update the Division's policy and procedure per federal Public Law 113-183, specifically to add the requirements for Division staff to notify the National Center for Missing and Exploited Children (NCMEC) when a child is missing from foster care and to provide information regarding the child so that NCMEC may aid the Division and law enforcement in locating the child as well as to report to local law enforcement any youth identified as being a sex trafficking victim.
 - To broaden the Division's definition of a child missing from foster care to include possible abductions as well as when a child leaves a foster care placement independently (i.e., runs away).
 - To provide additional detail to staff regarding notification requirements when a child is missing from foster care. To clarify that a new Child and Adolescent Needs and Strengths (CANS) assessment will be conducted when a child who has been missing from foster care is located.
 - To update the policy/procedures for general organizational and formatting purposes.

Rescinded Rule

- **PROCEDURE VII-L4: When a Child in Foster Care Runs Away**
 - To rescind and replace with new Policy VII-N: Child Missing from an Out-of-Home Placement and related procedures. Policy VII-N and related procedures provide more substantive and detailed protocols regarding staff and community response to a child missing from foster care.

PAGES FILED:



Signature

Name: Mischa Martin Title: Director

Section: Division of Children and Family Services

Department of Human Services

PROMULGATION DATES: September 29, 2016 – October 28, 2016

CONTACT PERSON: Christin Harper
DHS-DCFS Policy Unit
Phone: (501) 682-8541
Fax: (501) 683-4854
Email: christin.harper@dhs.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 Mischa Martin
CONTACT PERSON Christin Harper, Assistant Director
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.g
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 Regarding Children Missing from Out-of-Home Placements

2. What is the subject of the proposed rule? To update policy and procedures regarding Division protocols when a child goes missing from an out-of-home placement (i.e., foster care) per federal Public Law 113-183.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
Federal Public Law 113-183, Section 104
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. Procedure VII-L4: When a Child in Foster Care Runs Away will be rescinded and replaced with new Policy VII-N: Child Missing from an Out-of-Home Placement and related procedures (described below in response to Question 7. Policy VII-N and related procedures provide more substantive and detailed protocols regarding staff and community response to a child missing from foster care.

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 VII-N: Child Missing from an Out-of-Home Placement

- To update the Division's policy and procedure per federal Public Law 113-183, specifically to add the requirements for Division staff to notify the National Center for Missing and Exploited Children (NCMEC) when a child is missing from foster care and to provide information regarding the child so that NCMEC may aid the Division and law enforcement in locating the child as well as to report to local law enforcement any youth identified a sex trafficking victim.
- To broaden the Division's definition of a child missing from foster care to include possible abductions as well as when a child leaves a foster care placement independently (i.e., runs away).
- To provide additional detail to staff regarding notification requirements when a child is missing from foster care.
- To clarify that a new Child and Adolescent Needs and Strengths (CANS) assessment will be conducted when a child who has been missing from foster care is located.
- To update the policy/procedures for general organizational and formatting purposes.

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.)

September 29, 2016-October 28, 2016

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

January 1, 2017

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 Christin Harper
TELEPHONE NO. (501)682-8541 **FAX NO.** (501) 683-4854 **EMAIL:** christin.harper@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 Regarding Children Missing from Out-of-Home Placements

- 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	0	General Revenue	0
Federal Funds	0	Federal Funds	0
Cash Funds	0	Cash Funds	0

Special Revenue
Other (Identify)

0
0

Special Revenue
Other (Identify)

0
0

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

\$ 0.00

Next Fiscal Year

\$ 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

\$ 0.00

Next Fiscal Year

\$ 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 SEPTEMBER 2016 PROMULGATION

SUMMARY OF DCFS REGULAR PROMULGATION

The purpose of this regular promulgation is to establish a new Division policy regarding when a child is missing from an out-of-home placement. This new rule will ensure the State is in compliance with federal Public Law 113-183 regarding the requirement to report any child missing from foster care to the National Center for Missing and Exploited Children as well as to report to local law enforcement any youth who comes to the attention of DCFS and is identified as a sex trafficking victim.

POLICY VII-N: CHILD MISSING FROM AN OUT-OF-HOME PLACEMENT

01/2017

Occasionally there are instances when a child or youth may leave an out-of-home placement without authorization. Any of these instances will result in immediate action from the placement provider as outlined for the various circumstances below.

In all instances of missing children, the Division of Children and Family Services (DCFS) will collaborate with the placement provider, law enforcement, and the National Center for Missing and Exploited Children (NCMEC) in an effort to locate the child.

Children in foster care who are located after they run away from Interstate Compact on the Placement of Children (ICPC) approved placements in another state are handled by the DCFS ICPC office. However, if a pick-up order is issued, the Interstate Compact for Juveniles (ICJ) applies.

Neither ICJ nor ICPC are responsible for children who are not in foster care and are kidnapped (by either a custodial or non-custodial parent) in one state and taken to another state. These situations are a matter between the legal custodian and law enforcement. However, for children with whom the Division comes into contact due to an interference with custody issue not related to a child who is in DHS custody, please refer to Policy VI-I: Interference with Custody.

Child Who May Have Been Taken from an Out-of-Home Placement

If the placement provider has reason to believe the child was taken from the placement without authorization by another individual, then the placement provider will immediately notify the youth's primary Family Service Worker (FSW) caseworker and primary FSW caseworker's supervisor. The out of home placement provider will also begin an immediate search for the child/youth. The search will entail the following actions:

- A. Searching the immediate premises; and,
- B. Searching the community and contacting the child's friends and family members who may know of, or have information regarding the child's whereabouts.

Upon notification from the placement provider, the youth's primary FSW caseworker and primary FSW caseworker's supervisor will ensure the following individuals are notified of the child's disappearance:

- A. Area Director
- B. Assistant Director of Community Services or designee

The Assistant Director of Community Services or designee will then notify the DCFS Director.

Child Who May Have Run Away

If the placement provider has reason to believe the child independently left the out-of-home placement of his or her own accord (i.e., run away), then the out-of-home placement provider will begin an immediate search for the child/youth. The search will entail the following actions:

- A. Searching the immediate premises; and,
- B. Searching the community and contacting the child's friends and family members who may know of, or have information regarding the child's whereabouts.

Upon notification from the placement provider, the youth's primary FSW caseworker and primary FSW caseworker's supervisor will ensure the Area Director is also notified of the child's disappearance.

If the child who is believed to have run away of his/her own accord cannot be located within one hour of initiating the search, then at that point the out-of-home placement provider will immediately notify the youth's primary Family Service Worker (FSW) caseworker and primary FSW caseworker's supervisor. The primary FSW caseworker will then follow the steps outlined in Procedure VII-N1 below.

- 7) Any other factual, biographical, or historical information that may assist with locating the missing Child.
- E. Upon NCMEC's request, release to NCMEC any additional requested information and/or records in its possession that are relevant to locating the missing child.
- F. Keep NCMEC informed with up-to-date information regarding the missing child.
- G. Contact local OCC and request OCC to complete and file a pick up order for the child no later than 24 hours of receiving notification.
 - 1) The OCC attorney will then notify the judge with jurisdiction over the child's case.
- H. Update the child's placement information in CHRIS within two business days, to include completion of fields regarding the required reports made to local law enforcement and NCMEC.
 - 1) Even when the child is placed on runaway status, the child's Medicaid case will remain open. If the child is still on runaway status at the time of his/her Medicaid redetermination (i.e., the anniversary of his/her entering foster care), then the Medicaid case will be closed at that time.
- I. Communicate regularly with the child's secondary FSW caseworker and TYS Coordinator, if applicable.
- J. When an Arkansas child in foster care has run away and is located in another state, notify the Administrator of the Interstate Compact for Juveniles (ICJ) of the Division of Youth Services.
 - 1) ICJ will process all out-of-state runaways probationers, runaways, and children in foster care.
- K. If the child is not found:
 - 1) Continue to call previously contacted parties and inquire for information, furnish further information that becomes available, and if appropriate, extend the search to other counties and states.
 - 2) Update the custodial/non-custodial parents to assure them that the search continues no less than weekly when current contact information for the custodial/non-custodial parents is available. This requirement does not apply to parents whose parental rights have been terminated.

After receiving notification of the child's disappearance by the placement provider, the secondary FSW (if applicable) will:

- A. Notify the local police department and/or sheriff's office, as applicable, within two hours after receiving information on missing or abducted children or youth. The notification, which may occur via email, text, or phone will include:
 - 1) Child's name;
 - 2) A physical description of the child;
 - a) A picture of the child may be released to assist with identification provided that the child is not identified as a child in foster care.
 - 3) Child's date of birth;
 - 4) Circumstances of the missing child's disappearance, including the date the child went missing or was last seen and if the child indicated a destination (and, if so, what the destination is);
 - 5) Any other factual, biographical, or historical information that may assist with locating the missing child;
 - 6) A request for law enforcement to enter the information into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation.

After receiving notification of the child's disappearance by the placement provider, the FSW supervisor will:

- A. Notify the Area Director and Assistant Director of Community Services or designee of the child's disappearance.
- B. Conference with the FSW as needed.

- A. Conference with the FSW(s) as needed.
- B. Notify the Assistant Director of Community Services or designee.

PROCEDURE VII-L4: When Child in Foster Care Runs Away

Out-of-home placement providers (foster parents, shelters, and residential facilities) need to be aware that there are instances when a child will leave a placement without authorization (run away). If it is suspected that a child has run away, the out-of-home provider should begin an immediate search for the child. The search will entail the following actions:

- A. Searching the immediate premises
- B. Searching the community and contacting the child's friends and family members who may know of, or have clues about, the child's whereabouts.

If the child cannot be located within hours, the out-of-home provider shall notify their Family Service Worker or the DCFS County Supervisor. (If a child in foster care is placed in a facility or shelter outside of the initiating county, the Family Service Worker in the resident county shall be responsible for notifying the initiating county Family Service Worker of the child's runaway status, in accordance with Procedure III-A4.)

After notification of the child's disappearance by the foster parent, shelter or residential facility, the Family Service Worker or DCFS County Supervisor will:

- A. Notify the Area Director.
- B. Notify the local police Department, state police, sheriff's office and the child's attorney ad litem, give a description of the child and contact OCC for a pick-up order. A picture of the child can be released to assist with identification provided that the child is not identified as a child in foster care.
- C. Contact OCC who will then notify the judge who has jurisdiction. If the child is from another county, the resident county Family Service Worker will notify the initiating county Family Service Worker to contact OCC.
- D. If the child's home is in another county, or if the custodial/non-custodial parent(s) or relatives live in another county, the Family Service Worker in the family's resident county should be notified to alert the local police and sheriff's Department to look for the child.
- E. Notify the child's custodial/non-custodial parent(s) within two hours, or sooner depending on the age of the child, of the discovery of the child's disappearance by phone or visit to the home. If the custodial/non-custodial parent(s) current or correct address or telephone number is unknown, a letter should be written to their last known address. If the custodial/non-custodial parent(s) are in another county the Family Service Worker in that county will assume responsibility for notifying the custodial/non-custodial parent(s).
- F. If the child has indicated a destination, the police in the designated area should be notified to look for the child and whom to notify if the child is picked up.
- G. Update the child's placement information in CHRIS. Updating the placement information will open a response window to notify the DCFS Eligibility Unit of the placement change.
- H. Complete and transmit the DHS Incident Reporting Screen data fields in IRIS to the DCFS Director's office and the DHS Director's office, via the Client Advocate, no later than the end of the second business day following the incident. (See DHS Policy 1090 "Incident Reporting".)
- I. As soon as the child is found, call, or email, each person, and unit that has been alerted, and let them know the child has been located.
- J. When an Arkansas child in foster care has run away and is located in another state, the Administrator of the Interstate Compact for Juveniles (ICJ) should be notified. The Division of Youth Services administers the Interstate Compact for Juveniles.
- K. ICJ will process all out-of-state runaways probationers, runaways, children in foster care.
- L. Children in foster care who are located after they run away from Interstate Compact on the Placement of Children (ICPC) approved placements are handled by the DCFS ICPC office. However, if a pick-up order is issued, ICJ is responsible.
- M. Neither ICJ nor ICPC are responsible for children that are kidnapped (by either a custodial or non-custodial parent) in one state and taken to another state. These situations are a matter between the legal custodian and law enforcement.
- N. If the child is not found, continue to call previously contacted parties and inquire for information, furnish further information that becomes available, and if appropriate, extend the search to other counties and

states. Advise the court of jurisdiction of the status of the runaway child in foster care. Frequent contacts, not less than monthly, should be made with the custodial/non-custodial parents to assure them that the search continues.

- O. Submit a follow-up or final report on the DHS-1910, in IRIS, as warranted by the circumstances. The follow-up report should be submitted to the DCFS Director and DHS Director's office as soon as additional information becomes available.
- P. Update the child's placement status in CHRIS.

RES CIND