

Appendix I (Excerpt)

GLOSSARY

02/2008

- The age, size and condition of the child and the location of the injury and the frequency of recurrence of injuries shall be considered when determining whether the physical discipline is reasonable or moderate.

AGGRAVATED CIRCUMSTANCES—Aggravated circumstances exist when a child has been abandoned, chronically abused, subjected to extreme or repeated cruelty, sexually abused or a determination by a judge that there is little likelihood that services to the family will result in successful reunification; or a child has been removed from the custody of the parent or guardian and placed in foster care or in the custody of another person three (3) or more times in the last fifteen (15) months.

ALTERNATIVE COMPLIANCE – a request for approval from the Child Welfare Agency Review Board to allow a licensee to deviate from the letter of a regulation. The licensee must demonstrate substantial compliance with the intent of the regulation. This includes, but is not limited to, regulations that govern background checks and convictions for prohibited offenses.

CARETAKER – A parent, guardian, custodian, foster parent, or any person ten (10) years of age or older who is entrusted with a child’s care by a parent, guardian, custodian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible for a child’s welfare.

CHILD – A person who is from birth to the age of eighteen (18).

CHILD ABUSE HOTLINE – The Child Abuse Hotline is maintained by the State Police Crimes Against Families Division, for the purpose of receiving and recording notification made pursuant to the “Child Maltreatment Reporting Act”. The Child Abuse Hotline is staffed twenty-four (24) hours per day and has statewide accessibility through a toll-free telephone number.

CHILD CARE INSTITUTION – A private child care institution, or a public child care institution which accommodates no more than 25 children, and is licensed by the State in which it is situated or has been approved by the agency of such State or tribal licensing authority (with respect to child care institutions on or near Indian reservations) responsible for licensing or approval of institutions of this type as meeting the standards established for such licensing. This definition must not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

CHILD MALTREATMENT - Physical abuse, sexual abuse, emotional abuse, neglect, sexual exploitation or abandonment of a child.

CHILD MALTREATMENT INVESTIGATION -- A fact finding assessment that occurs when an allegation of child maltreatment is received. Completion is reached when a determination is made concerning the allegations.

CUSTODIAN – A person (not a parent or legal guardian) who stands in loco parentis to the child OR an agency or institution given custody of a child through a court order.

DELINQUENT JUVENILE – Any juvenile:

- Ten (10) years of age or older who has committed an act other than a traffic offense or game and fish violation, which, if the act had been committed by an adult, would subject the adult to prosecution for a felony, misdemeanor, or violation under the applicable criminal laws of this state or who has violated §5-73-119; or
- Any juvenile charged with capital murder or murder in the first degree, subject to extended juvenile jurisdiction.

DEPENDENT JUVENILES – Includes a child:

- Whose parent is in the custody of the Department of Human Services;
- Whose parent or guardian is incarcerated and the parent or guardian has no appropriate relative or friend willing or able to provide care for the child;
- Whose parent or guardian is incapacitated, whether temporarily or permanently, such that the parent or guardian cannot provide care for the juvenile and the parent or guardian has no appropriate relative or friend willing or able to provide care for the child;
- Whose custodian parent dies and no stand-by guardian exists;

MEDICAL PROVIDER – Any emergency department of a hospital licensed under § 20-9-214.

NEGLECT -- Acts or omissions of a parent, guardian, custodian, foster parent, or any person who is entrusted with the juvenile's care by a parent, custodian, guardian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible under state law for the juvenile's welfare, but excluding the spouse of a minor and the parents of a married minor, which constitute:

- Failure or refusal to provide the necessary food, clothing, or shelter, and education required by law, or medical treatment necessary for the juvenile's well-being, except when the failure or refusal is caused primarily by the financial inability of the person legally responsible and no services for relief have been offered or rejected;
- Failure to take reasonable action to protect the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness where the existence of such condition was known or should have been known;
- Failure or irremediable inability to provide for the essential and necessary physical, mental, or emotional, needs of the juvenile;
- Failure to provide for the juvenile's care and maintenance, proper or necessary support, or medical, surgical, or other necessary care;
- Failure, although able, to assume responsibility for the care and custody of the juvenile or participate in a plan to assume such responsibility.

NON-RECURRING ADOPTION EXPENSE SUBSIDY -- Payment for non-recurring adoption expenses incurred in the adoption of a child with special needs and is limited to \$1,500 per child. Payment will be made to or on behalf of parents who have adopted or have accepted placement for the purpose of adoption.

ORDER OF LESS THAN CUSTODY – A court order that DCFS may seek when there are protection issues regarding a child who has been subjected to severe maltreatment, but the Division does not want to seek custody.

OUT-OF-HOME PLACEMENT - Placement in a home or facility other than placement in a youth services center, a detention facility, or the home of a parent or guardian of the juvenile; or placement in the home of an individual other than a parent or guardian, not including any placement where the court has ordered that the placement be made permanent and ordered that no further reunification services or six-month reviews are required.

OUTPATIENT MENTAL HEALTH EMERGENCY – Defined by the Community Mental Health Center's actions and protocol, including, but not limited to, facilitation of admission to a hospital or other appropriate 24 hour treatment facility.

PARENT -- Biological mother, an adoptive parent, a man to whom the biological mother was married at the time of conception or birth, or has been found by a court of competent jurisdiction to be the biological father of the juvenile.

POLICY WAIVER – a request to deviate from DCFS policy, procedures or standards. The DCFS Director approves all policy waiver requests.

PORNOGRAPHY -- Obscene or licentious material, including pictures, movies and videos. Applying contemporary community standards, the material will be considered pornographic if an average person would find that the material taken as a whole appeals to the prurient interest or if the material depicts in a patently offensive way sexual conduct. The material must lack serious literary, artistic, political or scientific value to be considered pornographic.

Appendix XI

Alternative Compliance and Policy Waiver Protocol

03/2008

“Alternative Compliance” is defined as a request for approval from the Child Welfare Agency Review Board to allow a licensee to deviate from the letter of a regulation. The licensee must demonstrate substantial compliance with the intent of the regulation. This includes, but is not limited to, regulations governing background checks and convictions for prohibited offenses.

“Policy Waiver” is defined as a request to deviate from the letter of the DCFS Policy, and procedures or standards. The DCFS Director approves all policy waiver requests.

Traffic violations, other than DUI or DWI, do not require a policy waiver or alternative compliance as they are dealt with through the vehicle safety program.

The procedures for requesting a Policy Waiver or an Alternative Compliance are the same, up until the point when the request is given to the Assistant Director of Community Services.

The procedures are as follows:

The FSW will determine if a Policy Waiver or Alternative Compliance should be requested based on their professional judgment. Issues to take into consideration on criminal convictions would include the time frame and circumstances of the offense. When an Alternative Compliance is requested for an excluded criminal offense, the police report and any other reports regarding any criminal charges or convictions must be attached as documentation.

If approval is recommended, the FSW will request a Policy Waiver or an Alternative Compliance using the CFS-509B and attaching all appropriate supporting documentation, as applicable:

- Three personal references
- Current home study
- Copy of the Central Registry Check, criminal background check and/or FBI check resulting in a hit.

Within 10 business days of receipt of the request, the Supervisor will determine if the requested Policy Waiver or Alternative Compliance is appropriate for approval. Issues to take into consideration would include the time frame and circumstances of the offense.

- If approved, the Supervisor will send it to the Area Manager;
- If denied, the Supervisor will notify the FSW and the family.

Within 10 business days of receipt of the request, the Area Manager will determine if the requested Policy Waiver or Alternative Compliance is appropriate for approval. Issues to take into consideration would include the time frame and circumstances of the offense.

- If approved, the Area Manager will send it to the Assistant Director of Community Services
- If denied, the Area Manager will return it to the Supervisor.
- If denied, the Supervisor will notify the FSW and the family.

At this point, the procedures for requesting a policy waiver differ from the procedures for requesting an alternative compliance. The Assistant Director for Community Services will determine if the requested Policy Waiver or Alternative Compliance should be approved or denied.

Policy Waivers

When a Policy Waiver has been requested, the Assistant Director of Community Services will, within 10 business days of receipt of the request:

- Deny any inappropriate request for a Policy Waiver and return it to the Area Manager; or
- Approve an appropriate request for a Policy Waiver and send to the DCFS Director for final approval or denial.
- The Director’s final decision will be conveyed to the FSW for appropriate action.

The following requires a Policy Waiver:

- Misdemeanor hot checks or shoplifting;
- Driving under the influence (DUI) or Driving while intoxicated (DWI)
- Any misdemeanor that appears on a local background check; or
- Any DCFS Policy.

Alternative Compliance

When an Alternative Compliance has been requested, the Assistant Director of Community Services will:

- Deny any inappropriate request for an Alternative Compliance and return it to the Area Manager; or
- Approve an appropriate request for an Alternative Compliance and send it to the CWAL Manager.

The CWAL Manager and staff will:

- Deny any inappropriate request for an Alternative Compliance; or
- Approve and send to the DCFS Director for review.

The DCFS Director will:

- Deny any inappropriate request for an Alternative Compliance and return the request to the Assistant Director of Community Services, or
- Approve the request and return it to the CWAL Manager and staff.

The CWAL Manager will place any approved request for an Alternative Compliance on the agenda of the next scheduled meeting of the Child Welfare Agency Review Board (CWARB).

The Foster or Adoptive Parent and FSW who made the original request for an Alternative Compliance will appear before the CWARB to answer questions.

The CWARB will give final approval or denial of the request for the Alternative Compliance. This includes the following requests for Alternative Compliance of issues dealing with foster or adoptive home approval:

- Families where one or both parents are over the age limit;
- Parents that do not meet the two-year marriage requirement, including single foster parents who get married;
- Any other CWAL requirement that cannot be met except through Alternative Compliance.

The following crimes require an Alternative Compliance from the CWARB:

Felony Hot Checks

Animal cruelty;

Manslaughter (misdemeanors only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance);

Negligent homicide (misdemeanors only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance);

False imprisonment;

Permanent detention or restraint;

Battery in the 1st, 2nd, or 3rd degree (misdemeanors only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance unless the conviction has been over 5 years ago);

Aggravated assault (misdemeanor only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance unless the conviction was over 5 years ago);

Assault in the 1st or 2nd degree (misdemeanors only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance unless the conviction was over 5 years ago);

Terroristic threatening in the 1st or 2nd degree;

Contributing to the delinquency of a minor;

Alternative Compliance and Policy Waiver Protocol

Interference with visitation or custody;

Engaging in conduct with respect to controlled substances (misdemeanors only, regardless of when it occurred; felonies for this crime cannot receive an Alternative Compliance unless the conviction was over 5 years ago);

Distribution of illegal substances to minors;

Public display of obscenity;

Prostitution or promoting prostitution in the 1st, 2nd, or 3rd degree;

Computer exploitation;

Criminal attempt, criminal complicity, criminal solicitation, or criminal conspiracy.

A CWAL Licensing Specialist will monitor DCFS for continued compliance with CWAL standards and issue a corrective action notice if any deficiencies are found. The notice will state the agreement regarding the corrective action and a reasonable time frame for the violation to be corrected.



DEPARTMENT OF HUMAN SERVICES
Division of Children and Family Services

REQUEST FOR ALTERNATIVE COMPLIANCE OR POLICY WAIVER

Name of Family / Employee: _____

Address: _____

City: _____ State: __ Zip Code: _____

County: _____ Phone: _____

Director or Administrator: _____

Type of Alternative Compliance Request:

- Adoptive Placement
- Foster Care Placement
- Employee

Type of Policy Waiver Request:

- Adoptive Placement
- Foster Care Placement
- Employee

TYPE OF RECOMMENDATION

Alternative Compliance / Policy Waiver Requested _____

DISPOSITION OF ALTERNATIVE COMPLIANCE/POLICY WAIVER REQUEST

Approved Denied

Assistant Director, Community Services or Designee:

Name _____

Signature _____

Date _____

Agency Director:

Name _____

Signature _____

Date _____