

# **Development and Implementation of Tribal Foster Care and Relative/Kinship Care Standards: Second Edition**

**Materials developed by the National Indian Child  
Welfare Association**

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The Grandfamilies & Kinship Support Network: A National Technical Assistance Center (Network) helps government agencies and nonprofits in states, tribes, and territories work across jurisdictional and systemic boundaries to improve supports and services for families in which grandparents, other relatives, or close family friends are raising children whose parents are unable to do so. For more information, please visit [www.GKSNetwork.org](http://www.GKSNetwork.org).

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Note: The contents listed below are all links, so you can view a specific section of this guidebook with a simple click.

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## Introduction

Tribal nations have always had the sovereign authority to regulate the civil relationships in their communities. This authority includes child custody matters such as child welfare and all related services. Since the passage of the Indian Child Welfare Act in 1978, tribes have increasingly taken responsibility for providing child welfare services, including foster care services. When a tribe assumes responsibility for the care of a child through its tribal code, judicial process, and foster care system, it subcontracts the care of that child to a particular family. Through its child welfare program, the tribe must ensure that the child's substitute family will provide them with adequate levels of care. To effectively manage foster care services, a tribal child welfare program must address the following questions:

- ▶ What is an adequate level of care?
- ▶ How should children be treated?
- ▶ How will the child's cultural connections to their tribal community be maintained and nurtured while in substitute care?
- ▶ At what level should a child's needs be maintained?

Answers to these questions form the basis of foster care standards. In turn, the child welfare program uses those standards to license and regulate foster care homes.

Until recently, most models of foster care available to tribes were developed in the dominant society's child welfare system. Tribal programs often found it difficult to implement preexisting standards established primarily for mainstream American systems, which were not representative of tribal values and customs or community needs. While non-tribal models for foster care standards abound, little information is available about setting tribal standards and managing foster home licensing within the context of the tribal community.

This guidebook discusses several important considerations and suggests a process through which tribes can develop locally appropriate standards. It is based on the premise that foster care standards, including care by relatives, are most useful when developed by the tribal community in which they will be used and when a broad segment of that community participates in the development and implementation process.

## Foster Care and Relative/Kinship Care Standards – What Are They?

In a broad sense, foster care standards reflect a tribe's assumptions or beliefs about children. Standards are based on safety concerns, accepted theories about children's developmental needs, and traditional cultural teachings about child rearing. They also reflect a tribe's goals for the care of children under its protection. Beliefs, values, and goals are translated into written policies and

procedures that guide the delivery of foster care services. This guidebook uses the term “foster care” to include both care by relatives as well as non-related care providers. A later section discusses how relative care providers may be treated differently than non-related care providers when setting standards and licensing, as well as several things to consider when setting standards for relatives versus non-related care providers.

Simply put, foster care standards designate the level of care that a tribe expects foster care providers to provide for children placed with them. Standards become the criteria for determining which homes are suitable for foster care children and which are not. When relative care (sometimes called kinship care) standards differ from non-relative care standards, they serve the same function but are specific to a particular relationship. Clearly written foster care standards, based on a tribe’s goals, beliefs, and values, serve to protect the needs of children for whom the tribe has assumed responsibility. They provide a measure of credibility for the tribal child welfare program with community members, with the tribal council and administration, and with outside funding sources such as state and/or federal agencies.

Relatives often play a vital role in supporting their families, both as support to a child’s parents and sometimes as a placement resource for the child when safety becomes a concern. In many Indigenous communities, the responsibility for the care of children extends beyond the child’s birth parents to include the child’s extended family, close non-related caregivers, and community members, creating an interdependent nurturing network of caregivers that provide for the safety and well-being of the child and their parents.

Only the tribe can define who is a relative and under what circumstances care by relatives is informal and customary. When it becomes formalized, it requires oversight by the tribal government through standards and regulations. Therefore, to support relative care providers both formally and informally, a definition of who is a relative is required. Defining who is a relative and developing standards also requires knowledge and approaches that reflect the strengths and resilience of long-standing traditions of caring for extended family. Below are several considerations when including relative care standards in foster care standards.

## **Relative Care Standards – Considerations**

*Note: In this guidebook, the authors have used the language of “licensing or approval” when discussing the process of certifying a relative care provider as recognized by the tribe to provide care to a relative child. This terminology is similar to language that is used in Title IV-E of the Social Security Act (42 U.S.C. § 672(c)), also referred to as Title IV-E in this guidebook, and the Indian Child Welfare Act (25 U.S.C. § 1901 et seq.).*

## **Policy Questions and Considerations**

Tribal child welfare programs may consider developing foster care licensing or approval standards that contain language inclusive to relative caregivers and that provide some flexibility in meeting licensure requirements. Policy questions to consider may include those listed on the following page.

- ▶ How will licensing or approval standards be crafted to align with the tribe’s cultural practices and values as well as meet conditions associated with funding sources?
- ▶ Will standards for relative care providers explicitly outline a specialized licensing or approval process that is oriented specifically to the needs and experiences of relatives providing care to their relative children?
- ▶ Will standards outline the level of flexibility they will permit?
- ▶ Will standards describe how the agency might collaborate to develop solutions to address non-safety-related concerns related to meeting the licensure or approval requirements for placement in a relative home?
- ▶ Will unlicensed relative caregivers have the opportunity to participate in services and training offered to licensed families?

## **When to Formalize a Relative Placement**

In many tribal families, children may live for a time with relatives who care for them when parents cannot or when circumstances require a child to be cared for either temporarily or long-term by extended family. Most of these informal placements require no oversight from child welfare and, as such, should not be subject to the formal licensing process. For example, an adolescent who goes to live with a grandparent to “help out” is also likely to learn cultural roles and responsibilities as part of living with an elder. In another family, a parent might need to go to another location for work or education. However, not all situations are clear. A child with mental health issues under the care of a grandparent who does not have the resources to meet those needs might need help, which might necessitate more formal involvement with child welfare. Foster care standards and licensing codes and procedures can and should address when an informal family placement may become a formal placement and more formal support and services can be provided.

Another scenario might be that a child is found to be in need of care as a result of child abuse or neglect, is removed from their parent(s), and is temporarily placed with a relative. Policy can help determine at what point that placement needs to be formalized by licensing. Safety and flexibility are the two primary considerations in this case. Still, longer-term action should support the stability of care and ensure the care provider has the support needed to provide appropriate care. The tribe, through its programs, policies, and procedures, makes this possible.

## **Separate or Combined Standards**

Once a relative placement is designated as a formal child welfare placement, an important policy consideration is whether the relative care provider must meet the same standards as non-relative providers or if they can be licensed under standards specific to relative care providers. Until recently, federal rules required only one set of care standards for licensing relative and non-relative care providers. In September 2023, [federal rules changed](#) to allow Title IV-E foster care agencies to adopt separate licensing or approval standards for relatives (see 45 CFR § 1355.20(a)). The new rule only applies to states and tribes that have an approved Title IV-E plan or are operating the Title IV-E

program through a tribal-state agreement. Tribes that do not operate the Title IV-E program will have other federal or tribal law requirements that they will have to meet to license or approve foster care homes, such as the foster care licensing provisions under the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. § 3207) or Bureau of Indian Affairs Social Services regulations (25 CFR § Part 20).

Foster care programs operating under tribal sovereignty have always been able to decide whether to have separate standards. Those who receive funding from the state or county are usually subject to federal rules because the funds are ultimately from federal sources. As of the publication of this guide, all jurisdictions can decide whether to have separate standards for relative care providers so long as they meet safety standards. Some examples of safety standards would include, but are not limited to, criminal background checks and child abuse and neglect registry checks where available. The standards discussed later in this guide include examples of how relatives might be treated differently in standards and licensing.

## **Approval versus Licensing**

An agency may provide approval when a caregiver has met the minimum safety standards for a child to be placed in the caregiver's home, including background checks, an assessment of the home for safety, and an assessment of the caregiver's ability to meet the child's needs. The pathway for approval is typically streamlined, without compromising safety, and builds in continuity and support so relative care providers have a clear path to pursue licensure if it is appropriate and available to them. In one example, a tribe may approve a placement, but the licensing is done by the state. Therefore, a tribe may decide to outline their criteria for approval.

An agency may issue a license when a caregiver has completed all steps of the licensing process, including all safety standards required for initial approval, as well as training, medical exams, reference checks, and other conditions of full licensure as determined by the tribe.

In tribes that choose to implement a separate set of standards and relative-care-specific licensing process, a relative foster home might be treated as a category of family foster care. The licensure for relative care is then obtained through a specific process that might include its own training process intended to meet the unique needs of relative caregivers. Such relative caregivers are then considered fully licensed foster care providers who may only provide placement for children who meet the tribe's definition of relative. The tribal licensing code may also describe the limits on these homes and other licensure requirements.

Another consideration might be whether to allow for a "restricted" or "provisional" license, which is a license to care for a particular child. While this approach will not be appropriate for tribes operating Title IV-E programs, it provides an alternative to tailor licensing to fit specific cultural circumstances. Safety requirements will still need to be met, but the circumstances of a particular child's needs could be accommodated. For example, a relative might be considered for this type of license to benefit a child who feels safe and cared for even if that home would likely not meet the licensing requirements

for non-relatives. An example might be an elder relative with whom the child feels connected and safe but who might otherwise be considered too elderly to be a care provider.

Another option when developing standards for relative care providers is a waiver process. Such exceptions may be built into standards, licensing codes, and the approval process. A waiver may authorize a delay or exemption from meeting non-safety-related licensing requirements. The waiver option may be reserved for relative foster homes. Waivers might be considered when children are already living with a relative or when relatives are being considered for placement. Safety-related requirements would need to be met, including but not limited to passing background checks and child abuse and neglect registry checks, providing a safe home environment for the child in need of care, and ensuring that the child's needs are met. Establishing a clear pathway to approval that is community-driven, simplified, and supportive provides space for relatives to engage in a licensing process that aligns with their needs and experiences.

Regardless of whether a tribe decides to have separate or combined standards, the process for setting those standards can be largely the same. Later in this guidebook, we will describe one method for setting community-based standards. Before moving into the standards-setting process, the following section discusses how funding sources influence standards.

## Power of the Purse Strings

In the United States, the federal government has limited power to control how tribes and states implement services that fall under the sovereign power of the tribe or state. When the federal government does not have the authority under the Constitution to dictate policy, it uses “the power of the purse strings.” That is, it uses its power to create funding streams for programs that it wants to regulate. If you take the funding, you follow the rules. When tribes elect to receive federal funds for foster care, they also submit themselves to regulation. Federal foster care funding comes from Title IV-E of the Social Security Act and is an entitlement. An entitlement does not need appropriation; it is part of the federal budget annually. Tribes may access these funds in two ways: directly from the federal government or through an agreement with a state. The regulations are slightly different depending on which approach is used. There is an available [guide](#) that shares considerations, processes, and lessons learned from tribes that have experience with Title IV-E.

It is important to remember that operating the Title IV-E program is optional and may not be feasible for every tribe. Tribes that do not receive Title IV-E funding are not subject to its statutory or regulatory requirements. The following section briefly describes Title IV-E provisions that may influence standard setting if a tribe chooses to operate the program either directly through the federal government or through an agreement with a state.

*Note: Tribes that do not operate the Title IV-E program must meet other federal or tribal law requirements to license or approve foster homes, such as the foster care licensing provisions under the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. § 3207) or Bureau of Indian Affairs Social Services regulations (25 CFR § Part 20).*

## **Federal Funding (Title IV-E)**

### **Direct versus Tribal/State Agreements**

There are two ways in which tribal nations can access Title IV-E funding – they can either make a direct Title IV-E plan through the federal government or go through the state and enter into a Title IV-E agreement. Under a direct plan, a tribal nation would have access to direct funding to operate Title IV-E foster care, kinship guardianship, and adoption assistance. As of this writing, 14 tribal nations are implementing direct Title IV-E plans. Alternatively, a tribe that participates through a Title IV-E agreement with a state generally receives a pass through of Title IV-E funding for foster care, administration, and training. Under an agreement with the state, a tribe must follow the state’s Title IV-E plan, including the minimum federal requirements as well as any additional requirements the state has incorporated. Agreements may allow tribes to access Title IV-E funding for children under the placement and responsibility of the tribal court. When a tribal-state agreement is finalized, the state no longer provides direct services and is responsible for providing oversight of the federal Title IV-E requirements and technical assistance.

### **Title IV-E and Relative/Kinship Care**

Often, relative/kinship care providers who provide formal child welfare placements need a variety of supports, including financial support to meet the child’s care needs. Families may also need support for dealing with trauma, special needs of the child, and/or a variety of other challenges. Depending on the resources available for tribal child welfare services, relative care providers may or may not receive assistance. For some, Temporary Assistance for Needy Families (TANF) child-only grants are the only available support, and the amount available is far less than the usual foster care rate. Some relative care providers opt to become licensed to receive the support resources that are available to licensed foster care providers. Under the new final rule 45 CFR § 1356.21(m)(1), licensed or approved relative and kinship foster family homes must receive foster care maintenance payments equal to those provided to non-relative/kin foster family homes. This change recognizes the many benefits associated with relatives caring for their relative/kin children, the challenges that relatives face providing such care (often in emergency situations that result in unanticipated expenses), and the need to ensure relatives have equitable access to services and financial resources so that children can be maintained in relative care until they can be reunified. While it comes with many conditions, Title IV-E may make it more feasible for relative care providers to receive the help they need. However, even with Title IV-E funding, many barriers remain, such as those encountered when trying to complete background check requirements. From a standard-setting perspective, safety is a top priority regardless of funding source.

### ***Safety Issues***

In reviewing existing tribal standards and hosting a listening session to gain insights and examples to inform this guidebook, safety was the highest priority regardless of funding source. While there is a broad consensus that safety is a top priority, it can be challenging to agree on what is considered safe and unsafe. Standard setting can help determine what is suitable for each community. For example, there is broad agreement that a sex offender should not have access to children and that

smoke detectors need to be in the home. However, opinions differ regarding whether each child needs their own bed or bedroom. Some may disagree on indoor plumbing, the source of water, or firearms in the home, to name a few potential considerations. Questions also arise regarding past felony convictions when conducting background checks. Is a 20-year-old conviction for drug possession a safety issue if the applicant has a record of years of sobriety? Communities should discuss these issues and agree on where to draw lines for safety. It is also valuable to decide how to handle situations that do not fit the set rules. The bottom line is to determine how children can get the care they need from people who love them and be as safe as possible. Standards provide the criteria to examine, but discernment in each case helps apply the standards in ways that meet the needs of children.

Given their importance, foster care standards need wide acceptance within the community. The standard-setting process should allow for sorting out the community's assumptions and beliefs about children. A common set of expectations is derived from many divergent opinions. We call that process a community consensus model. Its advantages and disadvantages are discussed below.

## **Community Consensus: Advantages and Disadvantages**

Building broad community participation into the standard-setting process takes significantly more time, energy, and care than importing a set of standards from outside the community. The process may become political. It is important to avoid feelings that one tribal faction has more control than another or that individual participation has been unequal. There may be fears that the standards will be used politically in selective applications to exclude some foster home candidates. People may have different opinions about how liberal or restrictive the standards should be, forcing tough decisions between standards that are restrictive enough to ensure safe foster homes but liberal enough to encompass the needs and characteristics of all children. There may also be disagreements about how flexible the tribal child welfare program can be in applying the standards, so that people who would be good relative or foster care providers are not automatically excluded because they do not meet all the standards.

The advantages of the community consensus model fall into two main categories: those that benefit the community and those that benefit the tribal child welfare program. The community consensus model is compatible with the cultural traditions of various tribes. Historically, our leaders took a stewardship role, which meant they carried a sense of responsibility for their people. This sense of stewardship can be honored if the tribe's formal and informal leaders participate in the standard-setting process. The community is presented with an opportunity to work together around a common need, rebuilding the sense of interdependence and cooperation central to tribal life.

The community's values and beliefs about children and their needs provide a philosophical base for tribal child welfare services. More specifically, foster care standards provide tribal child welfare staff members with criteria for evaluating the program's services. They can get the information they need to plan improvements in foster home performance and to train staff and foster care providers. When community viewpoints are represented in the standards, these activities are more accepted and supported. Community engagement in the standard-setting process can also build public awareness

around the tribal child welfare program and present potential opportunities for recruitment of foster families and program staff. Finally, the community consensus model contributes to advocacy for children's needs, especially the need to justify budget requests to tribal government or other funding sources. When foster care standards are in place, tribal child welfare administrators are better positioned to say to funders, "If we are to meet our standards, then we need X amount of resources." Funders generally receive requests for resources more openly when standards are set using the community consensus model.

## **Key People in the Community Consensus Model**

The community consensus model relies on a small group of people representing all aspects of the community who will draft preliminary foster care standards for the community's review and approval. Usually, this standard-drafting committee or task force will be brought together by the tribal child welfare program. Careful thought should be given to who will be involved in the process.

Committee membership is critical if the foster care standards are to be accepted and supported. Members are drawn from professionals, parents, fostered youth, relative and foster care providers, elders, educators, spiritual leaders, and natural helpers so that the committee represents a diverse team of professional and lived experience experts. Tribal court judges are one of the most influential groups in determining what the formal standards of care should be. Just as influential, however, are people recognized as having the authority to set informal standards. By their very presence on the committee, they legitimize the standard-setting process in the eyes of the community. These informal leaders are often trusted elders, spiritual leaders, knowledge holders, or natural helpers. Relative care providers, both those who are involved with child welfare and those who are not, also bring an important perspective to the committee or task force by speaking to the strengths, challenges, and needs of relatives who are placement resources in the community and how present standards could be bolstered to best support relatives as care providers.

It is useful for the committee to have a designated coordinator who will bring the committee together, help facilitate meetings, and ensure the committee has access to needed information. Usually, the coordinator is a supervisor or staff member of the tribal child welfare program. The coordinator must be familiar with foster care and understand the community's formal and informal leadership. The coordinator should also be able to bring diverse groups of people together, facilitate meetings, ensure that notes are taken, and address questions. Finally, the coordinator must have sufficient time to collaborate with the committee, develop draft standards for discussion and review, and have access to clerical support.

In addition to the coordinator, the committee may also want to select a chairperson from its members. The chairperson should be someone the committee believes can best represent the committee's work to the rest of the community. Working with the coordinator, the chairperson will also develop agendas for committee meetings and facilitate the meetings. An agenda may follow the framework outlined below.

## Framework for Meeting Agendas

People who come together for the first time to work on a project often need to discuss the task at hand. Why are we here? What do we want to accomplish? How do we want to work together as a group? The committee may want to develop norms or guidelines for managing meetings or discussions. For example, here are a few general guidelines to consider implementing:

- ▶ Cultural values and protocols will be honored (e.g., respect for elders, not interrupting, etc.).
- ▶ Everyone has a responsibility to share their thoughts and ideas.
- ▶ There are no bad ideas.
- ▶ All ideas should be recorded and discussed by the group.

Once the committee is comfortable with its task, the real work of developing foster care standards can begin. The following questions provide a framework for the committee's work.

### **Based on what we know and believe, what level of care does this tribe want to provide for its children?**

A discussion built around this question will help develop a goal statement or collective sense of purpose that the committee can use to guide its work. This goal can also provide the overall theme for the standards themselves.

### **What level of care for children in this tribe do we take for granted?**

This question will generate discussion about individual assumptions related to raising children. There may be differing opinions about what "good" child-rearing practices are, and committee members will need to hear and understand these differences before they can move on to develop standards.

### **What level of care for children does this tribe currently provide?**

This question empowers the committee to compare its goals or major assumptions about child rearing with current practices in the community. Of course, a wide diversity of care will exist in any community. Talking about it helps a group identify what it wants to see for children who are in the care of the tribe through its foster care program. At issue here is the safety and well-being of children in foster care or the need to safeguard them from potentially harmful environments. In some cases, the committee may want their standards to meet or be equal to community practice; in other cases, they may want to exceed community practice.

### **What level of care for children do experts recommend?**

The committee may want to review existing literature or research on children's developmental needs, parenting, or health and mental health challenges. The committee members can use this information to stimulate their thinking or give direction to their ideas.

## **How are current standards (if any exist) working and/or how will we know if our new standards are working?**

The committee may want to undertake a review process of any standards that have been established in the past, or any that are used by other jurisdictions to license tribal homes. Review can help identify what does and does not work for both relative and non-relative tribal homes. The committee may also establish a process by which to monitor implementation and ensure continuous improvement.

## **What foster care standards have other tribes developed?**

The committee may also want to review standards from other tribes. In addition, the committee might examine standards from state agencies, private foster care agencies, or national standard-setting bodies. We have included examples from composites of several tribes' standards. In later sections of this manual, these examples will provide some ideas for how to structure or write foster care licensing standards.

## **Drafting the Standards**

In this section, we have included guidelines for drafting foster care standards for the areas of basic care and safety that require written standards. The tribe should note that there is a wide variety of standards and requirements that exist among tribal nations. This section is based on general practices. It does not purport to encompass all aspects and is made available as a guiding tool for tribes to consider when setting or revising their own foster care standards.

Usually, the requirements are not generally prohibitive to any lifestyle. A tribal foster family may be a couple or a single person. One or both foster care providers may be employed outside the home as long as childcare is available. Foster care standards help define the range of possible situations that can be considered appropriate for foster care.

## **Items to Consider for Possible Standards**

The tribe must always include background checks but should also include in their standards how to interpret those background checks and at what level a criminal background would disqualify an applicant from providing care generally or for a particular child.

The tribe should always include standards that are critical for a child's safety and determine what conditions would prevent a family from being licensed. It is critical that the tribe answer the question, what is safe care for children in our community? The committee process described here is intended to answer this question. The committee consensus process defines critical safety needs that become the foundation of the standards. The following list is offered as guidance that a committee might consider as part of their deliberations in setting standards. The process should also give direction to the child welfare program on assisting the family to meet the standards when they initially fall short. Safety items to consider should include but are not limited to the following list:

- ▶ Fire hazards and safety
- ▶ Storage of toxic substances
- ▶ Firearms storage/safety
- ▶ Age-appropriate car seats
- ▶ Cultural safety
- ▶ Drug/alcohol use and storage
- ▶ Water supply
- ▶ Use of discipline
- ▶ Safety of home for a child
- ▶ Nutrition
- ▶ Sleeping arrangements
- ▶ Pest control
- ▶ Hygiene
- ▶ Access to transportation
- ▶ Health

Generally speaking, licensed foster care providers, whether relatives or not, must meet a minimum set of safety standards. Individual tribes may need to define certain terms for clarity. For example, a home may be an apartment, duplex, single-family dwelling, or whatever the tribe deems to be a “home,” such as a mobile home, fish camp, a hogan, or a plank house with adequate space for children. Adequate space might also need to be defined. What is adequate is determined by local standards and the needs of children who need foster care. The conversation should be intentional, and the result should be defensible. Foster care providers may be required to obtain various health tests and maintain good health. For example, screening for tuberculosis or certain immunizations may be required.

Foster families are usually required to have an adequate income to meet their own needs. The placing agency (tribal child welfare or state or county child welfare) generally provides for the child’s basic needs in the form of a monthly payment for care and reimbursement or allowances for expenses.

While all these considerations are important, there should be room for community-based decision making regarding how these items apply to different communities. Some of these items are simply items to be explored with a family, and others will be conditions for approval or licensure. Many of these considerations should not bar a family from becoming licensed but rather provide for a greater

understanding of the family and any support needs. Community consensus is an important step in determining what base standards will be required of a foster home.

## **Obtaining Community Consensus**

Once the standard-setting committee has developed a goal statement, reviewed its assumptions, evaluated community practices, gathered relevant information, and reviewed other foster care standards, it can then draft preliminary standards for community review. These preliminary standards should be submitted for review and comment to as wide a cross-section of the community as possible. This review and comment phase may take the form of a public hearing, or it can be done informally. What is important is that the committee welcomes all feedback from community members.

After thorough consultation and review, the committee can use the feedback they received to revise the standards. The standards can then be submitted to the tribal council for approval or handed off to the legal department for drafting a tribal ordinance. Once complete, a nice addition would be a community signing ceremony to mark the work that has been accomplished and to affirm the tribe's convictions about children in foster care and their needs.

## **Use of Standards**

In this section, we will describe two different processes: one for foster care providers and another process for relative care providers.

### **Licensing Foster Care Providers**

Once standards are set, they become the yardstick by which families wishing to provide foster care are evaluated to become licensed. Standards are usually incorporated into a licensing ordinance, which also defines what department is responsible for licensing homes. That department may be referred to as the licensing agency. In most situations, the tribal child welfare program is designated as the licensing agency, but some tribes establish a program or department specifically for licensing foster care providers and related services. Normally, the licensing agency conducts a home study. A foster home questionnaire is filled out, and a personal interview is conducted. The licensing agency compiles the documentation required for licensing and submits it to an authority that is responsible for approving or disapproving a license. This may be the tribal council, or another body created by tribal ordinance.

The following are the usual steps in the process.

#### ***Step 1: Formal application***

The foster care licensing application and assessment process can be overwhelming for prospective foster care providers. Sometimes, the delivery modalities used are not conducive to families moving forward with the licensing process. For example, some families in tribal communities feel that the application process is too intrusive, lengthy, and mainstream, and due to historical and intergenerational trauma, do not wish to proceed with the licensing process. Therefore, prior to

developing standards for application and assessment, it may be useful to gather information from community members with lived experience who can speak to the strengths and challenges of the existing standards. That way, future standards best align with community needs and norms so that families feel supported through the licensing process.

Every individual or couple who desires to become a licensed foster care provider must complete an application, which typically includes information about the provider's ability and commitment to meet the physical, emotional, social, behavioral, and cultural needs of children placed in their care.

### ***Step 2: Background and registry checks***

Under the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. § 3207), background check requirements apply to all potential placements of American Indian and Alaska Native (AI/AN) children in tribally licensed or approved foster homes regardless of any link to federal programs or funding the tribe is receiving. When AI/AN children are eligible for services under the Title IV-E Federal Payments for Foster Care, Prevention, and Permanency program, background checks under that law apply.

For the purpose of Title IV-E eligibility and reimbursement for foster care, a tribe that is operating or is planning to operate an approved Title IV-E plan must conduct criminal records checks on any prospective foster care provider (42 U.S.C. § 671(a)(20)(A)) and conduct child abuse and neglect registry checks on any prospective foster care provider and on any other adult living in the home of the foster care provider (42 U.S.C. § 671(a)(20)(B)(i) before approval for placement of a child. A foster care provider may not be approved if any checks show felony convictions as outlined under 42 U.S.C. § 671(a)(20)(A)(i)-(ii).

Tribal nations have different access and challenges to getting criminal background checks performed for foster homes they are licensing or approving. Many tribes use their local state government or law enforcement agencies to perform these background checks, which can be very helpful but often require tribes to include state-defined criminal violations that go beyond minimum federal requirements in their background check of tribal homes. Other tribes have been able to conduct criminal background checks using the [Tribal Access Program](#) (TAP) under the United States Department of Justice, which allows tribes to develop their own capacity in this area and allows them to choose what criminal violations to check for. Other tribes that license or approve foster homes may have developed other methods for conducting criminal background checks, such as using vendors like Channelers, which has been approved by the Federal Bureau of Investigation.

### ***Step 3: A home study is conducted***

A home study is used to inform the child welfare agency and establish a written record regarding whether a family meets the licensing standards. It also documents the family's capacity to provide care and the age, development, and needs of the child that the home might best serve. The tribal child welfare agency may provide support to help strengthen the family's home environment so that they can meet the licensing standards. An agency might also provide support that helps build a

family's capacity for care, which can vary depending on the child's experiences and needs. Standards may give the licensing agency space to exercise flexibility.

The purpose of a home study is to determine

- A.** Whether the family and dwelling meet licensing standards, including health and safety standards set by the tribal licensing authority.
- B.** The caregiving ability of applicants to meet the needs of the children.
- C.** The number of children the foster home will be licensed to care for based on licensing capacity standards set by the tribal licensing authority.

***Step 4: It is recommended that an agreement is established between the tribe and the prospective foster care providers***

The home study and foster care provider agreement help assure that a child placed with the family in a foster home will be safe and well cared for. An agreement could include but is not limited to the following arrangements.

The foster care providers agree to

1. Cooperate with the tribal foster home licensing requirements.
2. Cooperate with the tribe's ongoing monitoring of the home.
3. Provide information (such as plans when leaving the reservation or tribal lands, where they are going, and how long they will be gone) required by the tribe.
4. Notify the tribe of any changes in the circumstances under which the foster home license was based, including but not limited to changes in the number of children or adults in the family, changes in the foster home location, or relevant changes in the physical or social environment of the home.
5. Attend all mandatory training (indicate a minimum number of hours).
6. Not combine foster care with boarding, childcare, nursing, or convalescent care for adults without the written permission of the tribe.
7. Notify the tribe of any infectious disease in the home or any exposure to infectious disease capable of causing serious illness to children placed in the home.
8. Cooperate with visiting plans with parents, siblings (when not placed together), and relatives of the children.
9. Cooperate with the tribal child welfare agency to carry out the child's case plan in a spirit of mutual trust and respect.

10. Make appropriate and reasonable childcare arrangements for the children in foster care when the foster providers are absent.
11. Assure that children in care have opportunities to participate in community activities that maintain and enhance their cultural identity.
12. Assure healthy child development by providing adequate food, clothing, and education to all children in care.
13. Keep confidential all information and records obtained in the process of providing foster care.
14. Report any incident of child abuse or neglect to the appropriate authority as defined in tribal code or policy.

Note: An agreement may also include a statement indicating that foster care is considered a temporary placement in most cases and foster care providers must be prepared to support efforts to help the child and their parents reunify when appropriate.

An agreement should include a philosophical statement that describes the purpose of the program and clearly states the obligations of the tribal child welfare program. A placement agreement may be used when the care of a particular child requires special consideration, conditions, or extraordinary skills or capacity.

The program agrees to

1. Inform the family about the child's strengths and challenges, including physical, emotional, behavioral, cultural, spiritual, and more.
2. Provide for the basic needs of the child.
3. Protect the foster home from disruption.
4. Provide training and information on the needs of a particular child.
5. Provide regular home visits and supportive services to the foster family.
6. Provide needed medical, mental health, or related services to the child in foster care.

The process of licensing determines whether a family and home are suitable for foster care. In addition, licensing is designed to safeguard children in foster care and ensure they receive competent care in the most suitable environment. An agreement binds the foster care providers and tribal child welfare program to a mutually agreed-upon set of expectations.

## **Licensing or Approving Relative Care Providers**

### ***Step 1: Formal application***

During an information session led by NICWA staff in October 2023, a few participants shared that the licensing application process can be overwhelming and intrusive for families and recommended that information-gathering processes align with community norms and culture. Others recommended incorporating community-based standards to simplify the application process in a way that accommodates the needs of relative care providers. While the licensing application process for relative care providers may be similar to the process for non-relative foster care providers, separate standards for relative caregivers may be established and should be based on feedback from relative care providers in the community. This may help align standards with how relatives experience the licensing or approval process currently and what standards can be built in to engage relatives in meeting licensing or approval requirements in a timely and supportive manner.

### ***Step 2: Background and registry checks***

Criminal background and child abuse and neglect registry checks are required for both relative and non-relative care providers. Tribes that operate the Title IV-E program will need to follow applicable criminal background and child abuse and neglect registry check requirements. All other tribes that license or approve foster homes but do not operate the Title IV-E program will need to meet requirements under the Indian Child Protection and Family Violence Prevention Act. Any prospective foster families, relative or non-relative, that do not meet the background check requirements under the applicable laws shall not be finally approved or licensed by the tribe. Child abuse and neglect registries can look different, with some only including criminal violations or substantiated allegations of child abuse or neglect, while other registries may include reports of alleged child abuse or neglect. For example, in some registries, an individual's name may remain on the registry even where an individual was not prosecuted or was found not guilty, unless they legally petitioned to have their name removed. Therefore, a prospective foster family may not have any criminal violations that would disqualify them from being licensed or approved under federal law, but other information found in a child abuse or neglect registry or from other sources that could inform whether the child will be safe in a prospective foster home should also be carefully considered before a final approval or license is issued.

When it is discovered that a prospective relative or foster care provider does not have any criminal violations that would disqualify them from being licensed or approved under federal law but does have a child welfare history, the tribal licensing authority may consider certain factors before deciding how to proceed with the application. The factors listed below are examples and are not meant to be an exhaustive list. Considerations should be defined by the community.

- ▶ The severity and nature of the behavior that led to the report/investigation.
- ▶ The number of reports/investigations in the applicant's individual history that raise concerns about the individual's qualifications to be a care provider.
- ▶ The time elapsed since the last report/investigation.
- ▶ The circumstances surrounding the report/investigation.

- ▶ The applicant’s individual explanation of the circumstances surrounding the behavior that led to the report/investigation.
- ▶ If applicable, participation in any remedial or rehabilitative services to alleviate the circumstances that led to the report/investigation, such as traditional ceremony, cultural activities, therapy, and/or parental training, among other services and programming.
- ▶ Any circumstances in which allegations of abuse or neglect were not prosecuted due to jurisdiction issues or due to failure by the appropriate jurisdiction to investigate in a timely way. (For example, some instances of alleged abuse are not prosecuted when the place of the abuse is in question, i.e., when there are questions about whether it happened on tribal land or non-tribal land, whether the first responder had authority to investigate, or whether evidence was gathered by the agency of statutory authority.)

As mentioned in the foster care provider section above, tribal nations experience different challenges when performing criminal background checks for foster homes they are licensing or approving. Many tribes use their local state government or law enforcement agencies to perform these background checks, which can be very helpful but often require tribes to include state-defined criminal violations that go beyond minimum federal requirements in their background check of tribal homes. Other tribes have been able to conduct criminal background checks using the Tribal Access Program under the U.S. Department of Justice, which allows tribes to develop their own capacity in this area and allows them to choose what criminal violations to check for. Other tribes that license or approve foster homes may have developed other methods for conducting criminal background checks, such as using vendors like Channelers, which is approved by the Federal Bureau of Investigation.

While all relative care providers who have children placed with them by the tribal child welfare agency or court must undergo criminal background checks and child abuse and neglect registry checks, not all prospective relative care providers may desire to be fully licensed. It is possible that the relative care provider may be more comfortable with a criminal background check and other mandatory safety measures as opposed to full licensing, which may include additional requirements as developed by the tribe. Tribal governments, as sovereign nations, can decide how they want to develop licensing for relative care providers and address the needs of these care providers, which may look different than how other jurisdictions would address these issues. In some jurisdictions, not being licensed could result in receiving less support or services, but this does not have to be the case in a tribal relative care model. Having adequate support and services for relative care providers is key to helping children live safely; heal from trauma or other well-being concerns; and stay connected to their culture, family, and tribe. Not being fully licensed can affect the ability of the relative care provider to access funding sources that can support the child’s needs, such as Title IV-E.

### ***Step 3: A home assessment is conducted***

A home safety assessment is typically focused on evaluating a safe living space and identifying any need for safety modifications to support the relative care provider in meeting the needs of their relative children. An assessment of a relative care provider’s ability to care for the physical, emotional, social, behavioral, cultural, and educational needs of their relative children should be

conducted with a recognition that child and caregiver needs are likely to evolve throughout a case. Home and caregiver assessments do not have to include all the same non-safety requirements outlined in an assessment for licensing non-relative foster homes. There should be space to evaluate a relative care provider's ability based on community standards and a home based on the needs of a particular child or sibling group. For example, a grandparent may not be able to provide transportation but is able to provide care with the help of other extended family members, or sleeping arrangements might follow cultural customs of co-sleeping.

Home assessment standards for relatives should give the licensing agency space to exercise flexibility so that the experiences and needs of children and their relative care providers can be supported. Relatives often become care providers very differently than non-relative families. Many relative care providers, for example, do not expect to become care providers and may not know that they can receive help to meet standards for licensing.

#### ***Step 4: Agreement between the tribal child welfare program and relative care provider***

Similar to non-relative foster care providers, standards may outline when establishing an agreement between the tribal child welfare program and relative care provider is appropriate to set expectations for the safety and care of the child. Such an agreement might also include how the child's relationship and the relative care provider's relationship to the birth parent will be managed. For example, some relatives might need specific support or guidelines around family gatherings, cultural activities, or community events. Others may benefit from clear expectations to help avoid problems related to behavioral health or trauma issues.

## **A Final Word**

The process of setting standards may naturally produce tension around differing beliefs and values. The various opinions that people hold, individual agendas, and past difficulties with child welfare services may all generate resistance or resentment. These feelings should be anticipated and honored because it is only through the sharing of differences that true consensus can be achieved. Further, keep in mind that a consensus can change over time – standards that were appropriate at one time may need to be revised later to reflect changes within the community.

Setting foster care standards is an exercise of sovereignty. Therefore, no tribe should let anyone from outside the tribe tell them what their standards should be. Accepting the challenge of clarifying their own values about children's needs is a major step toward ensuring that the tribe's standards are effective at meeting the needs of children and families.

## Sample Standards and Regulations

The following sections provide one model of tribal foster care regulations based on tribal code and two models (Sample Standards 1 and Sample Standards 2) of foster care standards. These samples were developed to provide examples of the structure and possible content of foster care regulations and standards documents. The suggested content is intended to represent one example and is not intended to be an exclusive model for foster care regulations or standards documents. Each tribal community has unique needs and circumstances that may require documents that are very different from the two models provided here. The following is a brief description of the Sample Regulations and Sample Standards 1 and 2.

**Sample Regulations:** The authority of a tribe to operate foster care programs comes from its sovereign authority over civil regulatory jurisdiction, including child custody matters. Tribal policy or code articulates the authority and designates implementation of the code within the tribal government structure. This power to regulate is usually held by the council or the court. The council or court exercises its authority by creating regulations based on the code and the authority delegated to it. In turn, regulations usually delegate the process of standard setting. The regulation may be implemented by the council or court or may be delegated to the administration or a commission or committee. Regulations govern all aspects of the related services. Licensing, sometimes called certification, is done by the child welfare department or another program set up for that purpose based on the regulations and standards established under the tribal government's authority. The sample regulations provided here assume a written code (not provided).

**Sample Standards 1:** This model was developed as a comprehensive example for tribal communities with extensive resources. These resources include a tribal court; tribal social services department, which may have a child welfare program; and the ability to provide child welfare services (i.e., foster care) independent of other child welfare agencies. Such tribes will need to comprehensively address the need for foster care standards.

**Sample Standards 2:** This model was designed for tribal communities that do not have extensive resources available to them. A tribal community such as this may or may not have a tribal court, tribal social services department, and the ability to provide tribally based child welfare services. Many times, these communities may have services provided by federal, state, or local child welfare agencies. In these instances, a set of foster care standards may help the tribe negotiate the placement of Native children in foster care within its own community rather than in foster homes outside the tribal community. Tribal foster care standards may also enhance a tribe's ability to enter into state/tribal agreements or contracts.

The models of foster care standards presented here are composites developed from elements of existing foster care standards from the following tribes, including five tribes (indicated by an asterisk) that engaged in the original development of this resource.

- ▶ Confederated Tribes of Grand Ronde

- ▶ Confederated Tribes of Warm Springs\*
- ▶ Eastern Band of Cherokee Indians
- ▶ Fond du Lac Band of Lake Superior Chippewa
- ▶ Fort Sill Apache Tribe\*
- ▶ Kiowa Tribe of Oklahoma\*
- ▶ Navajo Nation\*
- ▶ Port Gamble S’Klallam Tribe
- ▶ Sisseton Wahpeton Sioux Tribe of South Dakota\*

## Sample Regulations

### Authority

The authority for establishing and enforcing regulations for the licensing of foster care providers operating under the jurisdiction of the [designated tribe] is based upon the [designated tribe] [licensing code or policy] of [year].

### Purpose

The purpose of the [designated tribe] [licensing code or policy] is to provide for the safety of children on and/or near the [name of reservation, tribal lands, or service area] through the licensing and regulation of foster care providers and child placement agencies; to provide for the establishment of rules for foster care providers and child placement agencies; to ensure continuity of the child’s connections to their parents or guardians, siblings, extended family, community, and culture, while providing for the establishment of services that align with the individual needs of the child; to mandate policies for community control and ensure jurisdiction and sovereignty over tribal child welfare services and care of children who come under this jurisdiction; to provide for penalties; and to revise certain laws.

### Obligation of the [designated tribal child welfare or foster care program] to the Birth Parents/Guardians and Relative Care Providers

1. Purpose: Reunite children with birth parents or guardians, wherever possible.
2. Work with foster care providers to ensure a nurturing environment and quality care for the children.
3. Provide parent training to both birth parents or guardians and foster care providers.
4. Provide for the well-being, safety, and permanence of children in foster care.

## Eligibility

Any American Indian or Alaska Native child identified to be in need of foster care placement or those children in need of emergency and short-term care. Shelter care shall be provided within homes recruited and licensed or approved through a foster care program. [Indicate if voluntary placement also applies.]

*Note: Under the Indian Child Welfare Act of 1978, foster care placement means any action removing an Indian child from their parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated (24 U.S.C. § 1903(1)(i)).*

## Licensing Exclusions

A foster care provider must be licensed by the [designated tribal foster care authority], with the following exclusions:

1. A home providing care and supervision only to children related to the family through a private family arrangement. *Note: This is not applicable if children are placed by tribal authority or authorized for licensing and payment.*
2. A home providing care and supervision for a total period of less than [specified amount of time, e.g., 30 days] in any 12-month period.
3. A home providing care and supervision only to children placed in that home by an agency for the purpose of legal adoption by that family, unless the adoption has not been completed within [specified amount of time, e.g., two years] of placement.
4. A home providing care and supervision only for one unrelated child of 16 or 17 years of age who has been independently placed by themselves or their relative for purposes of education or work.

*Note: Since these are licensing exclusions, none of these placements would be eligible for Title IV-E reimbursement since they are not licensed homes.*

## Definitions

*Note: The following list of definitions is not exhaustive. Tribal definitions should be used as a first resource in establishing tribal policy.*

1. Definition of governing body of tribe (i.e., tribal council).
2. Definition of tribal foster care authority that is the delegated representative of the tribal governing body (usually the court, a committee, or a program such as child welfare).

3. Definition of the division of the social service agency that is primarily responsible for child welfare (usually the tribal child welfare program).
4. Agency Requirement: Those portions of the standards binding upon the agency but not upon the provider and so marked. Failure to meet one or more agency requirements is not a defense for the provider's failure to meet provider requirements.
5. Applicant: An individual who has submitted a signed and dated application form to the agency.
6. Child: Any person under the age of 18 years old (or as determined by the tribe).
7. Clan relations: People connected by kinship and descent relationships (as defined by the tribe).
8. Culture: The integrated pattern of human behavior of an affiliated group of people. The collective customs, ceremonial practices, traditions, norms, and spiritual practices of a group (as defined by the tribe). *Note: Culture informs the development and implementation of standards. Standards should outline the responsibility of relative and foster care providers in assisting children in foster care in their tribe's living culture.*
9. Definition of state, county, or local social services agency that operates in an area surrounding the tribal community.
10. Foster Care Provider: A family home licensed to provide one or more of the following types of care for [designated tribe] children who are [indicate if all or only those who are unrelated] to the family and who are cared for 24 hours a day:
  - a. Interim home: A foster care provider caring for children expected to return home within [specified length of time, e.g., one year] or to be placed for adoption within [specified length of time, e.g., two years].
  - b. Permanent home: A foster care provider caring for children (whether state wards or not) under written agreement for planned care until child reaches maturity.
  - c. Emergency shelter home: A foster care provider designated primarily for time-limited emergency placements, usually lasting no longer than 30 days for any child.
  - d. Special service home: A foster care provider able to provide extraordinary care or services by virtue of training, experience, and/or specific skills.
  - e. Restricted home: A relative or foster care provider licensed for a specific child, such as a relative provider caring only for a specific child that meets the [designated tribe] definition of "relative." A relative or foster care provider licensed as a restricted home may not accept a child(ren) other than the specifically named child(ren).
11. Guardianship / Guardian: A guardianship is an out-of-home placement arrangement for a [designated tribe] child as defined by [tribal code, ordinance, or foster care provision]. A guardianship arrangement is often a permanency approach that avoids completely cutting off

ties between the child and their parents by not requiring Termination of Parental Rights to occur.

- 12.** License: The document issued by the agency (as authorized by the governing body of the tribe) authorizing the applicant to provide foster care.
- 13.** Licensing capacity: Maximum number of children in foster care who can live in a foster home at any given time.
- 14.** Provider: Persons giving care to children in foster care in a licensed home. The provider is responsible for meeting and maintaining minimum licensing requirements in cooperation with the [tribal social service agency].
- 15.** Relative: A person that has a family, extended family, clan, kinship, or tribal relationship as defined by [tribal code or policy].
- 16.** Relative care provider: An extended family member for a [designated tribe] child as defined by [tribal ordinance or policy]. Extended family ties may be based on bloodlines, marriage, adoption, tribal custom, friendship with the family and/or child, and/or prior caring. Any member of the [designated tribe] community who is dependable, responsible, loving, and willing to care for a child may be considered extended family. A relative may also include a legally appointed guardian or the Indian Custodian as defined by the Indian Child Welfare Act.
- 17.** Substitute caregiver: A person providing temporary care for children in foster care in the absence of the foster care providers. Arrangements for substitute care must have the approval of the agency and the foster care providers.
- 18.** Waiver: Written permission from the [tribal social services agency] as authorized by the [governing body of the tribe] to disregard a particular section of licensing standards for no longer than [designated time, e.g., 6 to 12 months].
- 19.** Tribal members: Persons enrolled as members of the [designated tribe] as defined and verified by the tribe.

## Form of Payment

Payment for foster care shall be in the form of tribal checks issued to a designated payee approved by certification. Payment shall be determined by the number of days foster care is provided and with the approving signature of the designated foster care caseworker. Payment shall be for calendar months with day count upon certification approval by the designated foster care caseworker. A child may be temporarily absent [number] days, including the day leaving and the day returning, and payment will still be valid. An absence longer than [number] days will result in non-payment for all days absent. Absence will be paid for those reasons that are a part of normal home activity, such as camps and outings. [A designated foster care payment mechanism could be inserted here.]

## Support Payments

Monies available to children through per capita, child support, social security, Supplemental Security Income, payment from other tribes, and veteran's benefits will be deposited in a child's [designated holding account, e.g., BIA Individual Indian Money (IIM) account where appropriate and approved by court order]. The withdrawal of a child's funds will be determined and approved by the [designated governing body of tribal court] upon request of the agency.

## Authorization for Health Care

1. A court or its designated agent may consent to routine, non-surgical health care or emergency medical care and surgical treatment of a minor child placed with a foster care provider. The court shall execute a written instrument granting the provider authority to consent to emergency medical and surgical treatment and routine health care for the child, including mental health care, dental care, developmental screenings, and therapies.
2. A parent or guardian of a minor child who voluntarily places the child with a foster care provider or child placement agency shall execute a written instrument investing that provider or agency with authority to consent to emergency medical and surgical treatment and routine health care for the child, including mental health care, dental care, developmental screenings, and therapies.
3. Only the minor child's parent or legal guardian shall consent to non-emergency elective surgery for a child in out-of-home care. If parental rights have been terminated, consent for non-emergency, elective surgery may be given by the court to the agency responsible for placing the child.

A standard form for health care authorization shall be utilized for all children under the jurisdiction of the [designated tribe].

## Individual Care Plan

Foster care providers shall work with the [tribal licensing or social service agency] to prepare an individualized written plan for each child placed in their care, whether by court order or by voluntary agreement. Such plans shall be subject to review by the [designated tribal licensing authority]. Failure to cooperate with such a plan shall be grounds for revocation of the provider's license.

Foster care providers shall be provided with assistance by the [designated tribal licensing authority] to participate in preparing and implementing such plans.

## Responsibilities of the Tribal Licensing Authority

The [designated tribal licensing authority] shall establish rules and regulations for

1. Recruiting, licensing (i.e., certifying), relicensing, classifying, and supervising relative and foster care providers.

2. Uniform amounts of payment to relative and foster care providers according to the needs of the child.
3. The form and content of investigations, reports, and studies concerning licensing and regulations.
4. Denying, suspending, or revoking foster care licenses as provided for under the [designated tribe] foster care licensing code.

The [designated tribal licensing authority] may establish a reservation-wide ad hoc committee for the purpose of advising the formulation or amendment of the rules and regulations promulgated under the [designated tribe] foster care licensing code. *Note: This may not be feasible in every community.*

The [tribal licensing authority] shall provide training, consultation, and technical assistance to relative and foster care providers to ensure compliance with regulations promulgated under this policy.

The [tribal licensing authority] shall investigate and take action to prevent the continued operation of a foster home operating without a license.

The [tribal licensing authority] shall ensure that regulations represent child welfare practices that are appropriate, familiar, and consistent with the child's culture and traditions while providing a safe environment that will contribute toward the normal growth and development of meaningful relationships with parents or guardians, extended family, peers, and community members.

The [tribal licensing authority] shall not be obligated to make placements or to make payments to a licensed relative or foster care provider who has not had a child placed in their care.

## **Maintaining Adequate Standards for Licensure**

A foster care provider holding a license shall report to the licensing agency any changes in the circumstances, makeup, or residence of the foster home at the time they occur to determine if the changes necessitate a change in the license or require termination of the license.

## **Procedures for Obtaining a License**

A potential foster care provider residing on land subject to the jurisdiction of the [designated tribe] desiring to receive children for care, supervision, treatment, rehabilitation, or education shall apply for a license to the [designated tribal licensing authority]. The licensing authority, through its representatives, shall initiate the licensing process to establish the character and intent of the applicant, the need for the service, financial ability and stability, the cultural and religious content of the placement, methods to be used in carrying out the proposed services, and the overall applicability of the culture and the environment. The prospective foster care provider shall furnish the representative of the [designated tribal licensing authority] with material related to the licensing rules and regulations and other information deemed appropriate by the licensing authority.

When it has been determined that the prospective foster care provider meets the licensing requirements by the authority of the [designated tribal code or policy], the license shall be granted.

## Licensing of Foster Homes

Foster care license applications may be picked up at the [designated foster care office]. Caseworkers, kinship navigators, or other service providers may facilitate the application process to support interested relative care providers.

1. An initial interview by the [designated foster care agency] will be scheduled to share and gain information, schedule home visits for evaluation, and offer formal application forms.
2. Application forms should be completed, signed, and returned to [designated foster care agency] before scheduling the home visit for evaluation. The application may require an autobiography to be completed. Relative care providers may be provided with support, such as kinship navigation, to help them complete the application process.
3. Criminal background checks and child registry checks shall be conducted. Tribes that operate the Title IV-E program will need to follow applicable criminal background and child abuse and neglect registry check requirements as outlined under 42 U.S.C. § 671(a)(20)(A)-(B) of the Social Security Act. All other tribes that license or approve foster homes but do not operate the Title IV-E program will need to meet requirements under 25 U.S.C. § 3207(d)(2) of the Indian Child Protection and Family Violence Prevention Act (ICPFVPA). Background checks should be completed prior to a home evaluation, if possible, to avoid unnecessary disappointment for the applicant.

*Note: Title IV-E requires criminal records checks, including fingerprint-based checks of national crime information databases, for any prospective foster care provider (42 U.S.C. § 671(a)(20)(A)). Title IV-E also requires child abuse and neglect registry checks on any prospective foster care provider and on any other adult living in the home of the foster care provider (42 U.S.C. § 671(a)(20)(B)). Both must be completed before the prospective foster care provider may be finally approved for placement of a child. The Indian Child Protection and Family Violence Prevention Act requires that no foster care placement be finally approved, and no foster care license issued, until criminal records checks, including fingerprint-based checks of national crime information databases and child abuse and neglect registries (maintained by the tribe and state), are completed on each covered individual who resides in the household (25 U.S.C. § 3207(d)(2)(A)-(B)). ICPFVPA defines a covered individual as any individual 18 years of age or older and any individual the tribal social services agency determines is subject to a criminal records check under paragraph (2)(A) (25 U.S.C. § 3207(d)(1)(A)).*

4. Home evaluations shall include, but not be limited to, a description of potential foster care providers, the physical home, all people residing in and frequenting the home, and the social adjustment of family members.
5. Evaluation reports will be reviewed by the [designated foster care agency] to ensure

compliance with standards, and upon review, applicants will be notified by letter as to whether they are approved or disapproved.

6. Certification of the home shall occur with the signing of the foster family agreement.

## Types of Licenses

The [designated tribal licensing authority] may establish different licensing options to account for varying provider experiences and circumstances, changes in the condition of the home, or issues of noncompliance with licensing standards.

1. Full license: A license issued for no more than [amount of time, e.g., two years] when all licensing requirements are met.

*Note: If a specialized license is offered to relative providers, standards may indicate that these homes are fully licensed foster homes and include the length of time the license will be issued once licensing requirements are met.*

2. Provisional license: A license issued for no longer than [amount of time, e.g., 30 days to 6 months] to allow the licensee time to complete licensing requirements to achieve full licensure. For example, a relative takes on the unforeseen role of caring and needs additional time to complete necessary licensing requirements. *Note: See the discussion on page 7 of this guide.*

3. Probationary license: A license issued as a disciplinary measure to a foster provider who has previously been issued a license but is out of compliance with licensing standards. A probationary license may be appropriate when the issue of noncompliance does not present an immediate threat to the health and safety of the children in the home and when a plan can be established between the licensee and [tribal licensing or social service agency] to resolve the concerns about noncompliance within the probationary period. A probationary license may remain in effect for up to [amount of time, e.g., 30 days to 6 months].

*Note: Standards may require that an existing license be invalidated when a probationary license is issued. At the end of the probationary period, the original license should be reinstated, a new license issued, or the original license revoked.*

## Relicensing of Foster Homes

Every license shall expire every [amount of time, e.g., two or three years] from the date of issuance. License renewal is not automatic.

1. License renewal requires
  - a. Consultation with the [tribal licensing authority].
  - b. An application for renewal.
  - c. A home visit by the [tribal licensing authority] to ensure compliance with home health

and safety standards.

- d. Updated criminal background checks (including tribal law enforcement records) and child abuse registry checks (including prior tribal CPS reports).
  - e. Adherence to other safety standards as required by the [tribal licensing authority], such as participation in in-service training, provision of a copy of a current driver's license or other identification, proof of vehicle insurance if the applicant drives a vehicle, and/or an updated written home evacuation plan, among other requirements.
2. When the [tribal licensing authority] fails to meet its relicensing responsibilities, the license renewal shall be automatic. The [tribal licensing authority] shall officially relicense the foster care provider as soon as possible after the renewal date to ensure compliance with this policy.
  3. An application for the renewal of a license for a foster care provider shall be made in the same manner as the original application. A licensee should reapply either when
    - a. The present license will expire within 30 to 60 days.
    - b. There is a change in the original program and/or purpose for care.

## **Procedures for Suspension, Revocation, Denial, or Modification of License, Grounds Notice, Re-Evaluation, and Appeal**

The [designated tribal licensing authority] may suspend, revoke, deny, or modify the license of a foster care provider when the licensee or applicant falsifies information on the application or willfully and substantially violates the provisions of the [designated tribal licensing policy or code] or the terms of the license.

A license shall not be suspended or revoked, a renewal thereof shall not be denied, and a regular license shall not be modified to a probationary status unless the licensee or applicant is given notice verbally and in writing of the grounds of the proposed suspension, revocation, denial, or modification.

### ***Suspension***

The [licensing authority] may suspend a foster home certification because of violations of licensing standards or conditions in the home that render it unlicensable. A written warning of suspension should be provided to the foster care providers and the violations should be listed, along with the actions necessary to reach compliance and services available to assist the foster care providers. Children may remain in the home during this time of remedy unless the violations pose an imminent risk to any children. Foster care providers shall provide the [licensing authority] a written plan for compliance within [amount of time] of the written warning of suspension that outlines the actions and timelines to comply with the standards violated. If the foster providers fail to develop an approved plan within [amount of time], the [licensing authority] shall suspend the foster care license and remove all children placed in the foster providers' care by the agency. All suspensions will be in effect for [number] days. If the suspension ends and the foster providers have not developed and complied with an approved written plan, the [licensing authority] shall revoke the foster home certificate.

## ***Revocation***

A revocation may take place upon the legal determination of abuse or neglect of the child in care, with the child removed immediately from the home and placed in substitute placement. A foster care certification may also be revoked, suspended, or modified if the foster providers violate one or more of the licensing standards, falsify application or supporting documents, or fail to provide information about any disqualifying conditions that arise in the home after the license was issued. The [licensing authority] may allow foster providers the opportunity to resolve any disputes between the agency and providers regarding revocation or non-renewal of licensure. The [licensing authority] may develop dispute resolution procedures, which may include but are not limited to providing the foster care provider with a notification of revocation, notifying them of their right to request appeal, offering a statement detailing an opportunity for the foster care provider to address concerns related to the revocation, and sharing any timelines related to the [licensing authority or advisory board] making recommendations or a final determination.

Option: Before suspension or revocation, the [licensing authority] may choose to place a foster care provider into **inactive referral status**, not to exceed [number of months, e.g., 12 months]. Inactive referral status may occur for a variety of reasons, such as incomplete training requirements on the part of the provider(s), significant family or life stress that may be impairing the provider's ability to care for the children in foster care, or an agency investigation into the family for an allegation of abuse or neglect in the home, among other community-specific considerations. The foster provider should be notified before initiating inactive referral status, detailing the reasons for the change in license status and the length of time the inactive referral status will remain in effect. A foster care provider may request to be placed in inactive referral status. When this occurs, the inactive status should end at the provider's request.

## ***Denial of Certification***

Applicants for certification may be denied if there is a reasonable doubt that the home does not comply with standards. Notification shall be submitted by mail. Applicants can reapply if the home is upgraded to meet standards and if they apply within [specified number of days].

The [licensing authority] may deny the issuance or renewal of a certificate if the applicant falsifies the application or supporting documents. The [licensing authority] may act to revoke a certificate if falsification is discovered after certification or if the foster care provider fails to inform the agency of any disqualifying conditions that arise after certification.

## ***Re-Evaluation of Licensure***

The [designated licensing or foster care authority] may re-evaluate the suitability of a home for continuing licensure or adjustment to the license, as well as the effects on the children in placement, under the following conditions.

1. Each time a person other than the child in placement moves in or out of the home.
2. Serious illness or death of a licensed provider occurs.

The [licensing or foster care authority] shall complete a criminal history and background check on each new person in the home who is [age, e.g., 18 years or older]. The [licensing or foster care authority] shall interview the applicant and all new people living in the home and request other information and documentation as necessary to complete the re-evaluation of the home.

### ***Appeal***

Suspension, revocation, denial, or modification may be appealed within [number of days, e.g., 10 days] of the receipt of the notice. The appeal shall be in writing and addressed to the [licensing authority]. A designated representative shall appoint a Hearing Board. The Hearing Board should be composed of [a specific number] members who represent the region from which the provider or agency originate and shall have sound knowledge of the principles of the [tribal licensing policy, code, or ordinance], a commitment to the improvement of [designated tribe] child welfare services, and an understanding of administration and organizational structures of such designated services. Members of the Ad Hoc Committee may serve as hearing officers. The applicant or licensee may present evidence and testimony on their behalf and show cause why revocation, denial, or modification of license should not occur. An official of the [licensing authority] shall be present at the hearing and present testimony on behalf of the [licensing authority]. The decisions of the Hearing Board may be made in writing within [a specific number of working days] following the hearing and forwarded to the applicant or licensee by certified mail.

If the proposed suspension, revocation, denial, or modification is not appealed, the license may be suspended, revoked, denied, or modified, as proposed.

### **Persons Authorized to Place**

A parent or legal guardian of a child may voluntarily place a child with a relative or informal caregiver. No involuntary placements of a child shall be made without a court order.

### **License for Specific Children When Home Does Not Meet All the Standards**

A foster home that does not meet all the provisions of the established standards of foster family care may be licensed for the care of a specific child or children. This refers to situations where the best interests of a specific child or children are represented by placement in this home rather than in any other licensed foster home. The provisions of licensing for specific children are expected to be used in rare instances and are in no way intended to circumvent the standards for licensing foster homes.

*Note: This provision may not be permitted under federal regulation for tribes operating foster care under a direct Title IV-E plan or through Title IV-E agreements with a state.*

### **Withdrawal and Termination**

The foster care license may be terminated either by request from the [designated tribal licensing authority], the relative or foster care provider, or by mutual consent of the licensed provider and the [licensing authority].

## Foster Home to Give Notice of Withdrawal of Licensure

Relative and foster care providers are required to notify the agency of their intention to withdraw their home from licensure.

## Waiver of Regulations

The [tribal licensing authority – usually the tribal council or a delegated committee] may, upon the written request of the [designated licensing agency – usually the tribal child welfare or foster care program], waive provisions of the regulations when the designated agency is confident that the applicant’s alternative method will comply with the intent of the regulations. The waiver request shall be in writing and, unless a shorter time is mutually agreed upon, shall be only for the duration of the license then in effect. *Note: This provision may not be permitted under federal regulation for tribes operating foster care under a direct Title IV-E plan or through Title IV-E agreements with a state.*

## Penalties

Any foster care provider as defined by [tribal licensing policy or code] willfully operating without being so licensed by the [tribal licensing authority] shall be assessed a civil penalty in the amount of [specified amount] a day for each day of operation without a license.

## Sample Standards 1: Comprehensive Standards and Licensing

Regulations for foster care providers operating under the jurisdiction of the [designated tribe].

### Foster Care Provider Qualifications and Training

- I. Applicants for foster care shall be kind, mature, and responsible people who genuinely like children. They shall possess consistent and healthy methods for handling the lifestyle unique to their own families. Evaluation of applicants shall consider cultural differences.

*Rationale: Children who must live apart from their own homes uniquely need stable, understanding families. Many children needing placement have emotional, behavioral, or medical needs. These children may need extra understanding and parenting to ensure their needs are met.*

#### a. Satisfactory Compliance

A foster care license shall not be issued or renewed where any person (except children in foster care) living in the household has any of the following convictions or characteristics:

1. A felony conviction for a crime against children (including child pornography).
2. A felony conviction for spousal abuse or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery.
3. A felony conviction for physical assault, battery, or a drug-related offense within the previous five years.
4. Chemical dependency, unless the individuals identified as chemically dependent have been chemically free for at least [designated timeframe].
5. Residence of the family's own children in foster care, a correctional facility, or residential treatment for emotional disturbance within the previous [designated timeframe] if, in the judgement of the agency, the functioning of the family has been impaired.

*Note: When a tribe is administering a Title IV-E plan directly from the federal government or through a Title IV-E agreement with a state, a license must not be issued or renewed, nor an exception granted, if the convictions outlined in numbers 1-3 are present (42 U.S.C. § 671(a)(20)(A)(i)-(ii)). Tribes have the discretion to screen and approve foster care placements beyond this federal baseline, which may include but are not limited to those considerations outlined in numbers 4 and 5.*

- II. To promote the safety of children in foster care and assure them the maximum opportunities for growth and development, families caring for children shall be assessed on the following

essential elements:

- a.** Establishment and comfort with their own identity to the degree that meeting their own needs does not interfere with their meeting the needs of children in foster care.
- b.** Optimism, sense of humor, resiliency, and ability to enjoy life.
- c.** Knowledge of and relationship with their feelings, ability to express these feelings, and the capacity to look at themselves realistically regarding the kinds of children whom they can accept and for whom they can care.
- d.** Health and vigor to meet the needs of children placed with them, engage with differences of viewpoint, and advocate for the child in foster care when indicated.
- e.** Existence of meaningful connections with extended family, community, and culture.
- f.** Ability to deal with anger, sorrow, frustration, conflict, and other emotions in a manner that builds positive interpersonal relationships rather than in a way that could be emotionally destructive to other people.
- g.** Ability to give positive guidance, care, and training to a child according to their stage of growth, special abilities, and limitations.
- h.** Ability to use discipline in a constructive rather than a destructive way.
- i.** Commitment to understanding, acceptance, and effort to nurture cultural, spiritual, social, and familial attachments of the children.
- j.** Commitment to understanding, acceptance, and protection of a child's diverse sexual orientation and gender identity.
- k.** Ability and flexibility to accept a child in placement who has special needs and treat every child in foster care as a member of the family, recognizing that a child in foster care has other family ties.
- l.** Ability to accept the child's own family and maintain an understanding relationship with them.
- m.** Ability to work with the agency and other community resources.
- n.** Capacity and willingness to involve themselves in ongoing educational opportunities, as well as other learning experiences.
- o.** Ability to constructively resolve problems when difficulties arise.
- p.** Comfort relating to professional treatment personnel of all kinds, including the ability to discuss differences of viewpoint and to be an advocate for the child in foster care when indicated.

- q. Ability to openly discuss their attitudes with people with differing lifestyles and philosophies and a capacity to accept people who are different from themselves.

**III.** Foster care applicants and agencies must be able to work in partnership.

**Rationale:** The tribal child welfare program has overall responsibility for planning with the child. The service of foster care providers is an integral and important part of that plan. The relationship between the foster care provider and the agency must be one of mutual trust and respect.

**a. Satisfactory Compliance**

1. The foster care applicant and agency must sign and abide by the terms of the Foster Provider Agreement.
  2. A foster care provider shall be visited at least once a month by a representative of the [tribal licensing agency].
  3. An evaluation visit shall be made by the agency at least once every [designated timeframe] for as long as the foster care provider maintains a foster care license. The foster care provider shall receive a copy of the written evaluation report ([tribal foster care authority requirement]).
  4. The foster care provider has a right to know the agency's policy, procedure, and intentions toward placement of children in that foster home. The foster care provider may request and receive such information from the agency at the time of licensure and at any time the foster care provider has been without a placement for a 1-year period ([tribal foster care authority requirement]).
  5. Foster care providers are required to attend [number] hours of training annually, which will be made available and accessible to all applicants and foster care providers. Substitute caregivers and unlicensed voluntary relative caregivers shall be eligible for the same training as applicants and licensed foster care providers ([tribal foster care authority requirement]).
  6. There shall be a grievance mechanism for resolving differences between the agency and the foster care provider. The foster care provider shall be given a written statement of grievance procedures. Grievance procedures shall address those areas of disagreement not included in the appeal procedures set forth by the [governing body of the tribe] ([tribal foster care authority requirement]).
- IV.** The physical ability of the foster care provider shall be a consideration only as said condition may affect their ability to provide adequate care to children in foster care or may affect an individual child's adjustment to the family.
- V.** The [tribal licensing agency] may request consultation from specialists in evaluating the abilities of prospective foster care providers but must evaluate each applicant on an individual basis

[tribal foster care authority].

**VI.** When all adults in the foster home are employed or otherwise occupied for substantial amounts of time away from the home, the plans for care and supervision of the children in foster care must be approved in advance by the [tribal licensing agency].

**VII.** The health of persons living in the foster home shall not be a hazard to the children.

**a. Satisfactory Compliance**

1. The applicant shall supply to the [licensing agency] a statement from the applicant's health care provider dated within six months prior to ensure that either
  - a. Members of the family have received a physical examination and are physically able to provide care to children, or
  - b. Members of the family receive all necessary continuing health care and are physically able to provide care to children.

This statement may not be necessary for children who are members of the foster family if current school reports indicate good health.

The agency may, at its own discretion, require a physical examination of any person living in the home.

2. Foster care providers shall make the agency immediately aware of any communicable or infectious disease in the foster home.
3. When, in the opinion of the agency, any person in the home exhibits a mental health problem, the agency may require an evaluation of that person by a mental health specialist as a requirement to licensure.

**VIII.** Foster care providers shall participate in initial and/or ongoing training to develop and enhance their caregiving skills.

**Rationale:** The vast majority of children needing placement are children who have experienced separation, loss, and other traumas. Some children have specific emotional, behavioral, or medical needs.

The intent of an ongoing training program is to build on the foster care provider's initial interest in providing service and maximizing their ability to provide the highest quality care to [designated tribe] children. The aim of this training is to transfer information about foster care and children in foster care.

Training on cultural identity, practices, and language are known protective factors that mitigate the impact of adverse childhood experiences. Foster care providers should learn how to support the cultural identity and safety of children in their care.

Orientation and in-service training can, and should, take place in a variety of settings and through a variety of methods. These methods include, for example, group sessions offered by local agencies or foster parent associations; online courses; agricultural extension classes; organizational activities such as conferences, conventions, seminars, and workshops; special sessions offered by local school districts or mental health centers; Red Cross trainings; and one-to-one “tutoring” by [tribal foster care agency] staff or experienced foster care providers.

**a. Satisfactory Compliance**

1. Every applicant for a foster care license shall begin a minimum of [number, e.g., 6 to 12] hours of orientation and pre-service training prior to receiving the first child in placement (as designated by the tribe).

*Note: It is best practice to license relative care providers and, after licensure, offer a specific training curriculum intended to meet the unique strengths and needs of relative care providers.*

2. Every foster care provider shall participate in a minimum of [number, e.g., 12 to 24] hours of annual in-service training related to foster care. This may include developing a training plan that reflects the specific needs of children placed in the home and how the certified relative or foster care provider will meet annual training requirements.

*Note: The definition of training can be inclusive, i.e., caring for a child with special needs often involves learning about their individualized needs and how to support them, often hands-on with natural helpers and healers, elders, teachers, psychologists, and/or other support people.*

3. A foster care provider who wishes to take a leave of absence from foster care for up to twelve months may have the annual training requirement waived for that twelve-month period.

*Note: If providers are licensed, they must attend training, whether they have children in placement or not. If they take a leave, they may have to be relicensed later.*

4. Training opportunities should include, but are not limited to
  - a. Child and adolescent development
  - b. Communication skills development
  - c. Roles and relationships in foster care
  - d. Community services for children
  - e. Methods of discipline
  - f. Behavior management

- g. Constructive problem solving
- h. Safety planning
- i. Working with birth families and maintaining connections
- j. Planned moves and impact of disruptions – transition support
- k. Basic first aid
- l. Trauma of separation and loss – skills for supporting children
- m. Human sexuality
- n. The effects of sexual and physical abuse on children
- o. The effects of family substance use/abuse on children
- p. Cultural events and trainings

5. A foster care provider with [a certain amount of experience, e.g., five consecutive years without incident] as a foster care provider may be exempted from mandatory annual training at the discretion of the [licensing authority].

*Note: This is an option because children and their needs change over time, as does parenting information. All children are different, so years of experience may not prepare a caregiver for providing care to a child with Fetal Alcohol Spectrum Disorder, Severe Emotional Disturbance, and other physical, emotional, or behavioral impacts of trauma and adverse childhood experiences. Incorporating additional standards may be considered to support relative care providers.*

6. In addition to regular training requirements, every foster care provider licensed as an Emergency Shelter Home, Special Services Home, or Restricted Home may participate in additional annual training related to the individualized needs of these children (as required by the tribal licensing or foster care authority).

- IX. No child shall be subjected to physical or psychological abuse. Foster care providers should sign an agreement regarding discipline.

**Rationale:** Although families differ in their approach to discipline, harsh or threatening methods are particularly damaging to children in foster care. Discipline should be defined as an overall plan for teaching acceptable behavior; punishment is, more narrowly, negative reinforcement for unacceptable behavior. The carrying out of the individual plan for a child in foster care that involves specified consequences should not be construed as imposing punishment on that child.

- a. *Satisfactory Compliance*

1. Methods of discipline to be used in the foster home shall be discussed with the agency during the application process. Child training and discipline shall be handled with kindness and understanding.
  2. No child in care shall be subjected to unusual, severe, or cruel punishment.
  3. No child in care shall be subjected to verbal abuse, derogatory remarks about themselves or members of their family, or threats to expel the child from the foster home.
  4. Isolation, when used as discipline, shall not exceed 10 minutes for any child under six years of age. Isolation shall not exceed one hour for a child six years of age or older. Isolation shall be in a light, well-ventilated room of at least 50 square feet and within hearing distance of an adult. An adult shall check on a child in isolation at least every ten minutes. No child shall be isolated in a closet or locked room.
  5. No child shall be punished for bed-wetting or with regard to toilet training.
  6. No child in care shall be deprived of meals, mail, or family visits as a method of discipline.
  7. Punishment shall not be delegated to another child.
  8. Methods of discipline shall be periodically evaluated by the foster care provider and the agency.
  9. Corporal punishment is prohibited. Corporal punishment includes, but is not limited to, hitting, slapping, pinching, shaking, kicking, and biting.
- X.** Private data about a child and their family shall be kept confidential.

## Number of Children

- I. A foster home shall be limited to a certain number of children, including the home's own children, to provide for safety and responsiveness to the needs of each child.

**Rationale:** The abilities of foster care providers to provide care to children in foster care differ greatly. The maximum number of children allowed in foster homes must be flexible; however, the maximum number must also allow foster providers to devote sufficient time to each child.

*[Note: Tribes have the sovereign authority to determine how many children in foster care can be adequately and safely cared for in a foster home licensed by the tribal licensing authority. Based on our review of the tribal standards identified earlier in this guidebook, the maximum number of children allowed in a foster home ranged from six to eight children for two licensed or approved adults and three to five children for one licensed or approved adult or when two or more children living in the home are under a specified age (e.g., two children under two years of age). The maximum numbers outlined below are examples only. Actual restrictions on*

*licensing capacity should be decided locally, based on community circumstances and needs. Standards may allow the tribal licensing or foster care authority to limit or exceed the number of children a foster home is licensed to serve, provided that the needs of the children will be met. Considerations for making this decision may include but are not limited to the age of the children in foster care and other children in the home; the desire to keep siblings together; the physical, emotional, and behavioral needs of the children; the desire to allow a parenting youth to remain with their child; and a child or sibling group is being considered for placement in a relative foster home.]*

A tribally licensed or approved foster family may not exceed the following maximum number of children in the home, including children already living in the home (e.g., birth, half, step, and any other children in the home). [[Specify the total number of children.

- a. When one licensed or approved adult is in the home.
- b. When two licensed or approved adults are in the home.
- c. When two children under the age of [specified age] are in the home.]]

*Note: Under 42 U.S.C. § 672(c)(1)(A)&(B), the number of children in foster care that may be cared for in a licensed home may not exceed six, except at the option of the tribal agency, for any of the following reasons (for tribes that operate the Title IV-E program):*

1. To allow a parenting youth in foster care to remain with the child of the parenting youth.
2. To allow siblings to remain together.
3. To allow a child with an established meaningful relationship with the family to remain with the family.
4. To allow a family with special training or skills to provide care to a child who has a severe disability.

- II. Foster care providers must be at least 21 years of age at the time of licensure.

*Note: Standards may allow relative applicants, such as siblings or other relatives as defined by the tribe, who are 18 years of age or older to be considered for licensure. A standard-setting process can help a community determine what age is appropriate under tribal custom and tradition.*

- III. A license is not transferable to another provider or site.
- IV. The agency must be notified in advance of any changes that would affect the terms of the license, such as a change of address or additional persons in the home.
- V. A foster care provider may not have adult roomers or boarders unrelated to the foster provider without special permission of the agency. The foster care provider shall keep the agency

informed about all persons living in the home and all others having regular contact with the children in foster care residing in the provider's home.

*Note: Standards should align with community living arrangements. For example, a tenant may be allowed to live in the home if their living space has a separate, locked entrance. Other community-specific living arrangements may be highlighted in standards to support relative and foster care providers in safely maintaining children in need of care in their homes.*

## Enrollment of the Child

Relative and foster care providers shall assist the [tribal foster care authority and or enrollment office] in enrolling the child with the tribe in accordance with the tribe's enrollment policies. When foster care of a non-enrolled child is planned, the [tribal foster care authority] shall compile a family ancestry chart, or appropriate equivalent, except for such children for whom it appears that foster care will last or does last less than 30 days. In accordance with tribal enrollment policies, appropriate steps shall be taken to enroll eligible children if enrollment is not contrary to the wishes of the child and their parents or guardians.

## Health

- I. The foster care provider shall be prepared to cope with health emergencies.
  - a. *Satisfactory Compliance*
    1. The foster care provider shall have a plan approved by the [tribal foster care authority] for meeting health care emergencies. This plan shall include the name and phone number of the child's health care provider as provided by the [tribal foster care authority].
    2. The foster care provider shall have first aid supplies readily available to treat minor injuries.
    3. No child in foster care shall be given prescription medicine not specifically prescribed for them. Any medicine prescribed for a child in foster care shall be given exactly as prescribed and documented in the child's record. If the medicine is for emergency use, such as EpiPens, and the child is developmentally able, the child shall be trained in the proper use of the medicine and have ready access to it.
    4. The foster care provider shall have written instructions from a licensed health care provider prior to the administration of any prescription medication. Medication with current prescription information on the label shall constitute such instructions.
- II. Foster care providers who have house pets shall ensure that such pets have had all necessary vaccinations under existing tribal or county codes.
- III. The foster care provider shall report immediately to the [tribal foster care authority] the occurrence of death, serious injury, or serious illness of a child in foster care. A serious injury or

illness shall be defined as one requiring professional medical attention.

- IV. The foster care provider shall be responsible for carrying out the agreed-upon plan for health care for the children in foster care.
- V. The foster care provider shall have a means for contacting the [tribal foster care authority] 24 hours per day, seven days per week ([tribal foster care authority requirement]).
- VI. The foster care provider shall ensure the agency has current directions to the home.
- VII. Foster care providers shall develop knowledge of tribal medical resources to manage the child's health care needs when available and appropriate.

## Physical Environment

- I. Consideration shall be given to varying lifestyles and different cultures when determining whether applicants meet foster care licensing standards. If approval could require deviation from the standards, the agency must request a waiver in writing from the [governing body of the tribe], taking into consideration the health and safety of the children in placement ([tribal care authority requirement]).
- II. There must be safe water available. If available indoor or well water is not potable, this requirement can be met through the use of water brought in from a source known to be potable.
- III. The house and premises shall be reasonably clean, reasonably neat, and free from hazards that jeopardize health and safety.
  - a. *Satisfactory Compliance*
    - 1. The foster home premises shall be inspected by the agency ([tribal foster care authority requirement]).
    - 2. Foster home premises shall be free from accumulations of dirt, rubbish, or peeling paint.
    - 3. Prescriptions and over-the-counter medications, chemicals, cleaning supplies, and other toxic substances shall be stored out of the reach of children, except when children can safely access and administer emergency medications. They must not be stored with or immediately beside food products.
    - 4. The use of potentially hazardous materials and tools shall be supervised, and materials and tools shall be stored safely. This includes storage of firearms, weapons, and ammunition in a locked safe, cabinet, or other locked compartment that is inaccessible to children.
    - 5. If necessary, outdoor play spaces, swimming pools, hot tubs, or other water features should be enclosed to provide safety or have an approved safety plan.

- IV.** Foster care providers shall maintain personal cleanliness while preparing, storing, serving, and cleaning up food.
- a. Satisfactory Compliance**
1. Food and cooking utensils shall be stored to protect them from dust, vermin, and leakage from pipes or other contamination.
  2. Food and cooking utensils shall be stored at a temperature that will prevent spoilage and bacterial growth.
  3. Appliances regularly used in the storage and preparation of food shall be safe and in good working order.
  4. The use of home-canned fruits and vegetables is permitted.
  5. Measures shall be taken to protect against the entrance into the home of and/or breeding of vermin and insects.
- V.** The foster home shall be safe from fire and structural hazards.
- a. Satisfactory Compliance**
1. An inspection for fire safety using a fire safety checklist shall be made jointly by the applicant and the [tribal foster care authority] before licensure and annually thereafter before re-licensure. The [tribal foster care authority] may request an inspection of any foster home by a [designated fire marshal, health advisor, or other tribal entity].
  2. A foster home located in a mobile home must be inspected by a [designated fire marshal or health advisor]. *Note: This process may vary and should be based on community standards.*
  3. Any bedroom for a child in foster care that is in a room 50% or more below ground must be inspected by a [designated fire marshal, health advisor, or other tribal entity]. It must have two means of exit and be easily accessible to children.
  4. Unvented gas or oil heaters shall not be permitted.
  5. No stove or heater shall be located where it would block escape in case of fire.
  6. A portable A-B-C fire extinguisher shall be provided for the kitchen and cooking areas.
  7. Combustible items shall not be located near the furnace area or other sources of heat.
  8. Fireplaces, space heaters, steam radiators, and hot surfaces, such as steam pipes, shall be shielded against accidental contact.
  9. Every closet door latch shall be one that can be opened from the inside.

10. All doors in the home should be designed to permit opening from the outside in case of an emergency.
11. A report shall be made to the agency after the occurrence of a fire.
12. Emergency procedures shall be planned, practiced, written, and posted in the foster home. They shall include a plan for evacuation, temporary shelter, and a meeting place to determine if anyone is missing. Emergency procedures shall be reviewed and practiced at least annually by the foster care provider and [tribal foster care authority].
13. A smoke alarm or combustion detection unit (smoke or ionization) and carbon monoxide detectors, either battery or electrically operated, shall be installed in the corridor or hallway leading to the sleeping areas of the foster home.

*Note: The [tribal licensing or foster care agency] should assist prospective relative and foster care providers in obtaining safety equipment, such as a fire extinguisher, smoke alarms, baby gates, and other safety supplies, to meet home safety standards, where appropriate and where resources are available.*

**VI. Foster care providers shall be prepared to cope with emergencies.**

**a. Satisfactory Compliance**

1. The foster care provider shall make arrangements, approved by the [tribal foster care authority], for substitute care during emergencies.
2. A list of emergency telephone numbers shall be prominently posted, including police, fire, doctor, hospital, ambulance, and the emergency social services contact.
3. The foster care provider shall notify the [tribal foster care authority] as soon as it has been determined that a child in foster care has run away or is missing.
4. First aid supplies must be in an easily accessible place.

**VII. Firearm and weapon safety.**

**a. Satisfactory Compliance**

1. Firearms, weapons, and ammunition shall be stored locked, unloaded, and inaccessible to children.

## **Nutrition**

- I. Foster care providers shall consult with a licensed health care provider about the diet for children with special dietary needs, such as infants under one year of age, children with allergies, children who are over or underweight, and/or children who are hyperactive.
- II. Well-balanced meals shall be served daily.

**Rationale:** Balanced nutrition is basic to the attainment of good health. A child grows and develops rapidly. This growth and development are related to nutrition.

**a. Satisfactory Compliance**

1. Each day's menu shall include servings from each of the four basic food groups as indicated in the [supplemental resource discussing healthy nutritional requirements].

## Daily Activities

Every child in foster care shall be treated as a member of the foster home. Children in foster care shall share in the privileges and responsibilities of the home as appropriate to the child's age and abilities. Activities shall foster children's optimum physical, social, mental, and emotional development. Activities that enhance the child's appreciation of their cultural heritage shall be supported and encouraged.

### Infants

- I. Each infant must be held during bottle-feeding until safely able to hold their own bottle.

**Rationale:** An infant's first sense of security is closely related to their food. Being held during feeding helps them develop a trusting relationship with others. It is possible for a young infant to choke on milk or water from a propped bottle.

- II. No infant placed in a highchair shall be left unsupervised. A restraining device shall be placed around the child to prevent them from sliding down the highchair.
- III. Each infant must be held, rocked, cuddled, and played with during each day of care.

**Rationale:** Physical closeness to others is indispensable as a first step in developing social relationships.

- IV. An infant's attempts to communicate must be responded to.

**Rationale:** Baby sounds are the beginnings of speech and language development. Socialization is encouraged when the infant receives a response to their babbling.

- V. Infants need considerable muscle activity to develop physically, mentally, and emotionally. Infants learn by exploring their environment.

**a. Satisfactory Compliance**

1. The non-creeping infant shall spend part of each day outside the crib and playpen.
2. The creeping infant shall have freedom to explore outside the crib or playpen. A crib or playpen shall be used only for sleeping or for short periods when needed for safety. During the infant's waking hours, a playpen shall be placed where the infant can see others.

- VI.** The infant must be provided with an environment that stimulates all their senses.

**Rationale:** The infant develops in response to stimuli; normal development can be hindered by a lack of stimulation.

**a. Satisfactory Compliance**

1. Infants should be provided with (commercially made, homemade, or natural)
  - a. Things to look at (e.g., crib mobile)
  - b. Things to listen to (e.g., rattle, foster care provider's voice)
  - c. Things to feel (e.g., a soft ball)
  - d. Things to smell (e.g., newly baked cookies)
  - e. Things to taste (e.g., clean objects that are nontoxic and too large for the child to swallow or choke on)

**Toddlers, Preschoolers, and School-Age Children**

- I.** Each child shall be allowed as much independence as they can safely handle.

**Rationale:** Children need to establish their own identity; children learn through exploring and manipulating their environment.

- II.** Each child shall be provided with limits consistent with their age of understanding.

**Rationale:** The child needs to learn rules for their safety and the safety of others.

- III.** Each child shall be encouraged to communicate verbally.

**Rationale:** Speech and language development occurs through practice and encouragement. Socialization is encouraged when the child receives a response.

- IV.** Each child shall be given physical signs of affection as appropriate for age and maturity.

**Rationale:** Children need physical closeness, although they may reject it at times because of their growing need for independence or because they have some special needs such as autism. These special needs and independence must be respected, but rocking, hugging, and other physical signs of affection should be offered if appropriate.

- V.** Each child shall be provided with materials and equipment that will enhance their physical, mental, and emotional development.

**a. Satisfactory Compliance**

1. The foster care provider shall provide commercially made, homemade, and/or natural materials and equipment of sound construction in working order that encourage and

stimulate

- a. Large-muscle activities (e.g., large blocks, cardboard cartons)
- b. Small-muscle activities (e.g., manipulative toys, craft materials)
- c. Creative activities (e.g., dress-up clothes, art supplies)
- d. Cognitive activities (e.g., puzzles, books)
- e. Social activities (e.g., games)

**VI.** Toilet training shall be undertaken only when appropriate to each child's age and stage of development.

**a. Satisfactory Compliance**

1. Toilet training by the foster care provider shall be within the limits of the licensing rules.
2. No child shall be punished for accidents occurring during toilet training.
3. The agency shall offer consultation and training about toilet training to foster care providers.

**VII.** Each child shall nap or rest as is appropriate for their age and stage of development.

**Rationale:** Children need time for rest to support healthy development, which can look different for each child and should align with the child's developmental needs.

**Adolescents**

The view of adolescence upon which the following is based is that adolescence is a stage of human development. Adolescents have specific qualities and characteristics that support them in taking on new roles and responsibilities for performing tasks and developing skills. The degree and extent to which adolescents experience such responsible participation will determine and maximize their human development

Conditions for health and development should provide young people with the following opportunities:

- I. To participate as citizens, as members of a household, as workers, as tribal members, and as responsible members of society.

**Rationale:** Adolescents are growing, developing persons in a particular age group, not pre-adults, pre-parents, or pre-workers, but human beings participating in the activities of the world around them.

**a. Satisfactory Compliance**

1. The [tribal foster care authority] and the children in foster care shall discuss house rules with the foster care providers. The children in foster care are expected to live by these house rules.

**II.** To gain experience in decision-making.

**Rationale:** In our complex society, youth must develop the capacity to make decisions in many areas: school interests, work interests, use of discretionary time, and the kinds of friendships they want to cultivate, among others.

**a. Satisfactory Compliance**

1. Each child shall be provided with practical learning opportunities.

**III.** To interact with peers and acquire a sense of belonging.

**Rationale:** Adolescents are moving toward greater interdependence with their peers and require a sense of belonging to their age groups and adults. They need to acquire the ability to handle their sexuality, develop and maintain friendships, and experience closeness.

**a. Satisfactory Compliance**

1. Each child shall have the opportunity to participate in a variety of activities.

**IV.** To reflect on themselves in relation to others and discover themselves by looking outward, as well as inward.

**Rationale:** Adolescents encounter conflicting values in a rapidly changing world and should have the opportunity to act out their reactions, consider the pluses and minuses, and try to determine where they stand.

**a. Satisfactory Compliance**

1. Each child shall be provided with the opportunity to have significant experiences and carefully examine and reflect on those experiences for their moral development.

**V.** To discuss conflicting values and formulate their own value systems.

**a. Satisfactory Compliance**

1. Each child shall be encouraged to participate in open discussions with adults who expose their value system to the child but do not impose it on the child.

**VI.** To experiment with their own identity, relationships with others, and with ideas; to try out various roles without having to commit themselves irrevocably.

**Rationale:** Adolescents should be able to try out various roles without being obligated to pursue a given course.

**a. Satisfactory Compliance**

1. Each child shall be allowed opportunities to experiment, within the constraints of law, with their own identity in a non-judgmental atmosphere.

**VII.** To develop a feeling of accountability in the context of a relationship among equals.

**Rationale:** Genuine participation and genuine responsibility go hand in hand. A basic tenet of our social system is that for every right, there is a corresponding responsibility.

**a. Satisfactory Compliance**

1. Each child shall be provided opportunities for participation and accountability in a family relationship.

**VIII.** To cultivate a capacity to enjoy life.

**Rationale:** Maturity includes enjoyment, creativity, and frivolity, doing things on one's own, and learning to interact with all kinds of people.

**a. Satisfactory Compliance**

1. Each child should have a family that is accepting of other people's lifestyles and values, with flexibility, a sense of humor, and a sense of the joy of living.

**Other Opportunities**

- I. Special activities related to a child's cultural heritage, such as ceremonial practices, traditions, and religious and/or spiritual practices shall be available to them.
- II. Special activities related to a child's birth family shall be available to them, based on the family plan developed in coordination with the child, their parents, and the [tribal foster care agency].
- III. Special activities related to preserving clan relations, as available and appropriate, shall be available.

**Education**

A licensed foster care provider shall

1. Enroll the child in their school or educational placement, based on input from the child and their parents in coordination with the [tribal foster care authority].
2. Support the child's educational placement.
3. Assure the child regularly attends school or educational placement.
4. Monitor the child's educational progress, including keeping records of report cards, reports from the teacher, evaluations regarding educational testing or assessments, and disciplinary reports.

5. Monitor the child's learning style and potential learning challenges.
6. Work with the child's caseworker when referring the child for assessment of a possible disability.
7. Work with the [tribal foster care authority] regularly to share information regarding the child's educational progress.
8. Provide consent for a child or youth placed in the home to participate in routine school-related activities, such as field trips, after-school programs (e.g., academic support, mentoring, positive youth development, arts, sports and recreation, and workforce development), social and sporting events, and cultural events.
9. Develop an understanding of the [designated tribe] education programs and resources to assist the child's educational needs.
10. Encourage, support, and promote the child's attendance at tribal-sponsored educational events.
11. Develop knowledge of resources in the local community with the expectation of encouraging, supporting, and promoting educational opportunities for the children placed in the home.

## Reporting

A licensed foster care provider should immediately notify the [designated tribal licensing or foster care authority] of the following circumstances:

*Note: This is not an exhaustive list and may vary depending on community circumstances.*

- ▶ Any individual joins or leaves the household.
- ▶ Any new respite or substitute caregivers.
- ▶ Any anticipated changes in address, telephone number, or other related contact information.
- ▶ Any physical or structural changes in the home in which the child in foster care resides.
- ▶ Any arrest or court conviction of any member of the household (such notification must occur within [specified number] working days).
- ▶ Any known allegation of child abuse or neglect perpetrated by a member of the household or an individual who regularly visits the home [include a timeline, e.g., such notification must occur on the day that the certified family learns of the allegation].
- ▶ Suspension of the driver's license of any provider or member of the household who transports any child in foster care in a private vehicle.

- ▶ Any change in the physical or mental health of the foster care provider or a member of the household that reasonably could affect the provider's ability to meet the child's needs for safety, health, and well-being.
- ▶ Any time a member of the household applies to become an in-home childcare provider, foster care provider, or in-home adult day care provider. The [licensing or foster care authority] must provide approval before the household member can begin providing such care.
- ▶ Any time another agency wishes to place a child or young adult in the licensed home. The [licensing or foster care authority] must provide approval prior to the home providing such care.
- ▶ Any time the licensed foster care provider agrees to provide relief or respite care for another family that goes beyond occasional or incidental support. *Note: For example, a sleepover so that a friend or relative can get away for a weekend is incidental. Care for a child on weeknights to accommodate a relative's shift change at work would be beyond occasional or incidental.*
- ▶ Any other changes to the information provided on the original licensing application or other circumstances that reasonably could affect the safety or well-being of a child in the licensed foster care provider's home.

## Records

- I. The [tribal foster care authority] shall establish and maintain an individual record for the foster family home ([tribal foster care authority requirement]).

**Rationale:** The foster home record serves as the basis of evaluation both of foster home quality and of [tribal foster care authority] practice. Recommendations to the [governing body of the tribe] about the foster home must be substantiated through the [tribal foster care authority] records.

### a. Satisfactory Compliance

1. The [tribal foster care authority] record shall contain
  - a. A copy of the application for licensure signed by the applicant.
  - b. A Foster Care Provider Agreement Form [see [example on pg. 68](#)] signed by both the applicant and the [tribal foster care authority].
  - c. A health care provider's statement concerning the physical health of the applicant and other adults living in the home.
  - d. A current completed fire safety checklist and a written report from the [designated fire marshal, health advisor, or tribal housing authority], at the discretion of the [designated tribal foster care authority].
  - e. The pre-licensing home study.



care authority]. This plan shall be evaluated and updated regularly, but no less often than every [number, e.g., six] months [tribal foster care authority].

**Rationale:** The growth and development of children with acute emotional, behavioral, and/or medical needs must be planned and evaluated regularly.

**a. Satisfactory Compliance**

1. The foster care provider and [tribal foster care authority] must participate in program planning. The school district shall be invited to participate and given reasonable notice.
2. Other agencies and community resources shall be called upon as indicated by the needs of the individual child.
3. The individual program must be available for use by the foster care provider, the [tribal foster care authority], and the school district.
4. There shall be regular evaluation of the child's progress at intervals mutually agreed upon by the foster care provider and the [tribal foster care authority]. Progress shall be recorded by the [tribal foster care authority].
5. The individualized program plan shall contain specific, measurable, achievable, relevant, and time-bound goals. Each goal shall be related to the care and welfare of the child in foster care and have a specific timeline for completion. The goals shall be updated as needed at the time of evaluation.
6. Community resources and services must be made known to and utilized by the foster care provider, as indicated by the needs of the children.
7. A plan for regular time off for providers shall be developed by the [tribal foster care authority] and the foster care provider ([tribal foster care requirement]).
8. The environment and structure of the home shall be appropriate to the needs of the children in foster care.

## **Respite Care and Use of Substitute Caregivers**

Foster care providers must receive approval from the [designated tribal licensing authority] prior to using a respite caregiver or providing respite care for another family. (*Note: Approval is applicable if care goes beyond occasional or incidental as mentioned on pg. 53.*)

### ***Responsibilities and Notification Requirements for Respite Care***

The foster care provider may select a respite caregiver who is

- ▶ At least 18 years of age (or old enough for such responsibility, as defined by the tribe),

- ▶ Capable of assuming childcare responsibilities, including meeting any individualized needs of the children placed in the foster provider's care,
- ▶ Always present while the foster care provider is away, and
- ▶ Capable of contacting the foster care provider in the event of an emergency or following emergency plans outlined by the foster provider prior to placement in the caregiver's home.

The foster care provider must provide the [tribal licensing authority] the name, address, and telephone number of the respite caregiver for the purpose of conducting mandatory background checks, including fingerprint-based criminal offender records checks of national crime information databases and registry checks as outlined in [tribal code, ordinance, or agency policy].

Foster care providers may use licensed, registered, or approved childcare centers or day care providers for a child in care. The foster provider must notify the [tribal foster care authority] in advance of using the licensed childcare center or day care provider. The foster care provider is responsible for identifying and selecting safe and responsible substitute caregivers for children placed in their home, and must consider the child's age, individualized needs, attachment and individual behaviors, and the length of time the child will be with the substitute caregiver.

Foster care providers may also choose to use a babysitter. The foster care provider must use a responsible caregiver who is at least [age determined by the tribe, e.g., 14] years of age or older for short-term intermittent childcare. A babysitter does not need to complete a criminal history background check. The foster provider must

- ▶ Have an available method through which the foster provider may be contacted in an emergency.
- ▶ Assure the babysitter can assume childcare responsibilities required to meet the needs of each child in the family's home and will be present at all times.
- ▶ Assure the babysitter does not provide overnight care.

## **Preexisting Agency Clause**

All relative and foster care providers established and operating under the jurisdiction of the [designated tribe] before the passage of this law (i.e. tribal licensing code) shall be subject to the rules and regulations promulgated under this law from the date of its enactment.

### ***Tribal Foster Care Compacts/Agreements Regarding Child Placements Outside the Jurisdiction of the Tribe***

The [tribal foster care authority] and [authorized placement agencies] shall enforce compliance with Tribal Foster Care Compacts/Agreements in the placement of children outside the tribe's jurisdiction.

Such compacts/agreements shall require foster care providers outside the jurisdiction of the tribe and child placement agencies to

1. Prepare individual program plans for each child.
2. Provide opportunities for reasonable visits with the child’s parents or guardians and extended family, where appropriate and approved, and to the family’s home site, and coordinate services with the [tribal foster care authority].
3. Provide equal opportunity employment allowing for American Indian and Alaska Native staff.
4. Provide case reporting to the [tribal foster care authority].
5. Expose the child to their culture, language, tradition, and religion during placement, where appropriate and applicable.
6. Provide familiar counseling, treatment, disciplinary practices, and educational methods.

Any individual, organization, or institution that invites placement of a child outside the jurisdiction of the [designated tribe] shall be licensed in accordance with the regulations of the [tribal licensing policy or code].

## Sample Standards 2: Basic Standards and Licensing

Regulations for foster homes operating under the jurisdiction of the [designated tribe].

### Applicant Regulations

- I. Procedures of application: Individuals or families desiring to provide foster care services on land subject to the jurisdiction of the [designated tribe] shall make written or oral expressions of intent to the [designated tribal licensing authority]. The licensing authority shall be responsible for assisting the applicant in filing necessary forms in the dominant language of the applicant.
- II. Confidentiality: Information the provider receives on the child and the child's family shall be kept in confidence. Release of social, medical, or educational material requires prior authorization from the [designated tribal social service agency].
- III. Income: The income or resources of the applicants shall be sufficient to maintain the family (e.g., food, clothing, shelter, utility costs, and other household expenses) prior to the addition of a child in foster care.

*Note: Socio-economic status shall not be considered a disqualifying factor for licensure.*

- IV. Health and medical reports: Members of the foster home shall be in good health and shall furnish health reports indicating their good health to the [designated tribal licensing authority] at a specified time before licensing.
- V. Family member agreement: The prospective provider's family members over the age of six shall be in agreement regarding the plan to care for children in foster care.
- VI. References: The prospective provider shall provide the [designated tribal licensing authority] with [number e.g., a minimum of three] character references who are knowledgeable about the family's ability to care for children.

### General Regulations

- I. Accessibility of caretakers: One primary foster care provider shall be available to the child at all times unless another caregiver, known to the [tribal licensing authority], is authorized to provide substitute care.
- II. Accessibility of premises: Foster care providers shall maintain a home environment that will allow for the accessibility of children with disabilities or acute medical needs when appropriate.
- III. Animals: Foster care providers shall discuss with the agency whether undomesticated animals (e.g. chickens, goats, etc.) are safe for children to be around and come up with a plan to support the family when appropriate. All animals susceptible to rabies shall be vaccinated.
- IV. Basic needs: Foster care providers shall provide adequate food, clothing, shelter, and personal supplies, as well as educational and cultural support to promote the physical, mental,

emotional, and behavioral development of the children served.

- V.** Bedding space: The child in foster care shall be provided with personal space and bedding designated for their own use.

*Note: Sleeping arrangements should be considered based on community standards, including room sharing and other safe sleeping spaces other than designated bedrooms. Standards may consider the child's preference to ensure comfortability and the child's past sexual trauma to ensure the child has a safe and private sleeping space.*

- VI.** Communication system: Foster care providers shall have a reliable and reasonable means of communication that they shall use to initiate assistance when needed and inform the [designated tribal licensing authority] of any crisis in a reasonable amount of time. How the communication system operates shall be communicated to the [designated tribal licensing authority], and a communication plan shall be on file with the [designated tribal social service agency].
- VII.** Community involvement: Foster care providers shall allow the child to participate in community activities.
- VIII.** Discipline: Foster care providers shall discipline the child in an age-appropriate manner consistent with cultural norms that complies with tribal code and that supports the needs of each child in care.
- IX.** Family contact: Foster care providers shall allow visitation with the child's parents or guardians, extended family, and clan relations in accordance with the case plan and shall be willing to work with the [designated social service worker] to return the child to the family or extended family, as soon as possible, in the best interest of the child.
- X.** Training: Foster care providers shall participate in training programs offered by the [designated tribal licensing authority], designed to support the child and the child's parents and family.

## Health and Safety Regulations

- I.** Fire safety: Foster care providers shall follow minimum fire safety standards (as designated by the tribe), which may include but are not limited to the following:
  - a.** Exits shall be accessible and unlockable from the inside.
  - b.** A minimum A-B-C rating fire extinguisher, a smoke detector, and any other community-appropriate fire safety supplies shall be provided and installed where appropriate and available.
  - c.** Not more than one quart of flammable liquid shall be stored in the home or near the child's living quarters. All such liquids shall be stored in metal containers with tight-fitting lids.
  - d.** Foster care providers shall organize and carry out monthly fire drills.

- e. Foster care providers shall undergo training on home safety through consultation with the [designated tribal health advisor].
  - f. Foster care homes operating from trailers shall be anchored to the ground, have two means of access, have smoke detectors, and have A-B-C rated fire extinguishers. Foster care providers shall allow access for fire inspection by the authorized tribal division.
- II.** Electrical safety: Foster care providers shall have age-appropriate tamper-resistant electrical outlets covered and out of the reach of children.

*Note: Depending on community experiences and needs around electrical safety, standards may require that an inspection be conducted by a health advisor, fire marshal, or other tribal entity to ensure child safety.*

- III.** Heating equipment: Heating equipment shall be adequately protected to prevent children from coming into contact with it. The use of an unvented or open flame heater, portable heater, or sawdust furnace is prohibited. All unused gas outlets shall be capped to the wall or the floor with a standard pipe. All gas devices shall be equipped with automatic pipe gas shut-off controls. Kerosene lamps and gaslights shall be kept out of reach of the child unless they are educated and trained in using them. Wood-burning stoves should be covered with a screen and insulated to ensure safety. The heating equipment of the home shall be approved by the [designated health advisors] upon foster home application.
- IV.** Firearm and weapon safety: Firearms, weapons, and ammunition shall be stored locked, unloaded, and inaccessible to children.
- V.** Control of insects, rodents, and noxious weeds: Foster care providers shall control fly or mosquito breeding areas. Accumulation of debris that may produce harborage of rodents shall not be permitted. Rats and other objectionable creatures shall be eliminated.
- VI.** Poison: Foster care providers shall keep all insecticides and flammable substances out of reach of children and stored away from food. Medicines, if not required by children for their own emergency use, should also be stored out of reach of children.
- VII.** Water supply and temperature: The foster care provider's water supply, water containers, and fly-tight privies shall be inspected by the [designated health advisor] and meet the regulations of the Environmental Protection Agency. Foster care providers shall not expose children to water exceeding 110 degrees Fahrenheit.

*Note: Water temperature may be included as part of a placement agreement. Foster care providers shall undergo training through [designated public health service] in analyzing water supplies for safety.*

*Note: This process may vary and will depend on best practice in your tribal community regarding water safety.*

- VIII.** Health and safety inspections: The inspection of water, heating, electrical, and fire safety, as

well as safety against environmental hazards, will be conducted by the [designated housing authority, health advisor, trained social service personnel, or other tribal entity].

- IX.** Transportation: Foster care providers shall have access to reliable means of transporting the children to school, medical and health facilities, practitioners, visits with parents or guardians, and social and cultural activities. If transportation is by private vehicle, this includes having age-appropriate automobile safety seats and seat belts for children. The means by which transportation is available shall be communicated to the [designated tribal licensing authority] and a written plan shall be on file with the [designated tribal social service agency].

*Note: The [tribal licensing or foster care agency] should assist prospective relative and foster care providers in obtaining safety equipment, such as a fire extinguisher, baby gates, car seats, and other safety supplies, to meet home safety standards, where appropriate and where resources are available.*

## Regulations Governing Child Rights

- I.** Abuse: Physical and verbal abuse, ill treatment, and harsh and degrading punishment are prohibited. There shall also be safeguards protecting children from exploitation and abuse by peers and other individuals in the children's environment.
- II.** Activities: Children shall be permitted to participate in appropriate recreational, physical, and athletic activities according to individual preference and ability.
- III.** Case plan: Children shall be informed about the case plan to the extent that they are able to understand it.
- IV.** Clan relations: Children shall be advised of clan relationships and have access to them, and attempts shall be made to advise clan relations of the whereabouts of their clan children.
- V.** Culture: Foster care providers shall assist the children in carrying out cultural and religious responsibilities as defined by that child's parents or guardians and extended family. Children shall be allowed to observe and participate in familiar customs, traditions, and religious or spiritual practices.
- VI.** Legal representation: Children shall be guaranteed access to legal representation and to grievance and compliance mechanisms.
- VII.** Protection against environmental hazards: Children shall not be placed or continue in a placement upon the determination that the physical environment is contaminated by anything hazardous.
- VIII.** Communications: Children shall be permitted to send and receive mail, emails, social media, and other communications uncensored, except if it poses a safety risk to the child. In one example, mail may be opened in the presence of the child to inspect for any hazards. When the potential harm is emotional or psychological, the provider shall engage the agency to develop a safety plan for viewing correspondence. The child's case plan may indicate any

limitations or define how the child is to send or receive correspondence.

- IX.** Medication: Commercial drugs shall not be administered for behavior control unless prescribed by a health care provider. Traditional medicine shall not be used without the diagnosis of a medicine man.

*Note: A medicine man may be known as a healer, ceremonial person, traditional practitioner, or other locally used term. The [designated tribal licensing authority] shall be advised prior to the use of traditional medicine for any child in foster care.*

- X.** Privacy: Privacy and the identity of the child shall be protected. Children shall never be exploited for the benefit of the foster family.
- XI.** Services: Appropriate social, educational, vocational, health, religious or spiritual, and cultural services or activities shall be available for the benefit of the child in the foster home.
- XII.** Work experience: Work experience for children shall be appropriate to the age, health, and ability of the individual child and in line with child labor laws.
- XIII.** Visits: Children shall be allowed visits with their parents or guardians, siblings, extended family members, clan relations, and friends in accordance with the case plan.

## Foster Home Requirements

The foster home shall

- I.** Have a couple in a stable relationship or a single head of household.
- II.** Prevent the presence of any individual in the home who would be harmful to the children in foster care.
- III.** Always have a foster care provider at home with children under the age of six unless childcare services or substitute care is arranged with the [tribal foster care authority].
- IV.** Ensure children in care are adequately supervised at all times.
- V.** Not place children in any situation that endangers their health, schooling, or recreation.
- VI.** Not use severe or harsh punishment, including spanking.
- VII.** Respect the religious affiliations, cultural practices, and ceremonial practices of the child.
- VIII.** Have income or resources sufficient to maintain the family prior to the addition of a child in foster care.
- IX.** Provide a nutritious and sufficient diet daily.
- X.** Possess positive habits, such as abstinence or responsible use of alcohol, and not be involved with current illegal drug use.

## Foster Family Composition

- I. Relative or foster care providers may be single or a couple.
- II. The number and ages of children in a home, both own and foster, shall be considered on an individual basis, taking into account the relative or foster care provider's ability to meet the needs of all children present in the home, the physical accommodations in the home, and especially the effect that an additional child would have on the family as a unit. Family composition, including the number of children living in the home, may be considered as follows.

*Note: Numbers provided below are examples only. Family composition standards should be decided locally.*

- a. Foster care providers may have no more than two infants under the age [number, e.g., two], including the foster family's own children.
- b. Foster care providers may have no more than a total of [number, e.g., six] children, including the children in foster care and the foster care provider's own children, in the foster home. Exceptions should be made to keep siblings together and for children to be placed with relatives whenever safely possible.
- c. The age range of the children in a foster home should be based on cultural norms. Placement may need to consider age distribution when competition and comparisons might present adverse conditions for children in need of care.
- d. Different relationships with birth parents should not preclude placement in the same foster home. However, placement decisions should consider the effect of having some children in the foster home whose parents or guardians visit them and other children whose parents or guardians do not.
- e. A foster home shall not provide placements for more than one agency at a time without a written agreement delineating the responsibilities of all parties involved.

*Note: Under 42 U.S.C. § 672(c)(1)(A)&(B), the number of children in foster care that may be cared for in a licensed home may not exceed six, except for any of the following reasons, at the option of the tribal agency (for tribes that operate the Title IV-E program):*

1. To allow a parenting youth in foster care to remain with the child of the parenting youth.
2. To allow siblings to remain together.
3. To allow a child with an established meaningful relationship with the family to remain with the family.
4. To allow a family with special training or skills to provide care to a child who has a severe disability.

## Personal Characteristics

Prospective foster care providers shall possess personal qualities of maturity, stability, and flexibility; good moral character; and the ability to cope with stress, the capacity to give and receive love, and the ability to support cultural identity. Such characteristics are reflected in the following:

- I. Psychosocial history, including significant childhood relationships (with parent(s), sibling(s), relatives, friends, and/or others) and experiences
- II. Role identification and acceptance
- III. Reactions to experiences of separation and loss (through death, desertion, etc.)
- IV. Cultural identity and capacity to support the positive identity development of the child
- V. Education, employment, and patterns of interpersonal relationships
- VI. General social, intellectual, and cultural characteristics of the family
- VII. Level of everyday functioning
  - a. Home and money management ability
  - b. Daily routine and habits
  - c. Reactions to stress
- VIII. Affect responses (ability to give and receive love and ability to deal with loss, separation, disappointment, etc.)
- IX. Moral, ethical, and spiritual qualities of the family
- X. Religious affiliation and habits
- XI. Hobbies, special interests, skills, and talents

## Foster Care Provider Abilities

An assessment of prospective foster care provider caregiving abilities regarding a specific child shall consider the following:

- I. Current motivation for application
- II. Characteristics and number of children best suited to foster family
- III. Existing family relationships, attitudes, and expectations regarding own children and parent/child relationships, especially where such existing attitudes and relationships might affect the child in foster care
- IV. Attitudes of significant members of the extended family regarding child placement

- V.** Ability to accept and love the child in foster care as they are
- VI.** Capacity to absorb the child into family life functioning without undue disruption
- VII.** Capacity of foster providers to care for the needs of the child in foster care while also considering the needs of their own children
- VIII.** The foster care provider's own children's attitudes toward accepting a child in foster care
- IX.** Realistic assessment of the benefits and challenges of being a foster care provider
- X.** Personal characteristics necessary to provide continuity of care throughout the child's need for placement
- XI.** Flexibility to meet changing needs over the course of placement
- XII.** Ability to accept a child's relationship with their birth parents or guardians
- XIII.** Ability to act in a non-judgmental manner toward birth parents or guardians for the sake of the child
- XIV.** Ability to care for a child with special needs (physical, mental, emotional, behavioral, spiritual)
- XV.** Awareness of the area for which ongoing social work assistance may be needed
- XVI.** Ability to help a child return home or be placed in relative or kinship care, guardianship, customary adoption, or conventional adoption and gain satisfaction from the arrangement

## **Discipline**

In addition to the basic needs of food, clothing, and shelter, all children need and have the right to happiness, love, and security. Children who come into foster care may have greater needs because some of their basic needs have not been met.

All children need to know how to control their behavior and that their behavior has consequences. Discipline is intended to teach children how to behave and to correct undesired behavior. It includes encouraging children and praising them for appropriate behavior. Discipline must always be applied with consistency and love, not anger. The immediate situation and the condition of the child should also be considered. Children must be told when their behavior is not appropriate and why they are being disciplined.

It is expected that the following methods of discipline will be utilized by foster care providers. It is the [tribal foster care authority's] responsibility to ensure that only acceptable methods are applied to children for whom the [tribal foster care authority] has legal responsibility.

Developing appropriate discipline strategies may involve

- ▶ Working collaboratively with the [tribal foster care or licensing agency] in developing a behavior intervention plan and accessing services to address challenging behaviors.
- ▶ Selecting and implementing strategies that respect and involve the child in the change process.
- ▶ Being mindful of the child's age, developmental level, and past experiences with abuse and neglect when approaching methods of discipline.

### ***Acceptable Methods of Discipline***

1. ***Give Something Rewarding.*** Children learn best when praised, hugged, smiled at, or given something they like for “good” behavior.
2. ***Remove Something Negative.*** For good behavior, excuse a child from doing something they dislike. For example, give them the night off from doing dishes, taking out the garbage, or cleaning the house, or extending their bedtime or curfew.
3. ***Remove Something Rewarding.*** Take away privileges, such as use of the television, a stereo, or a cell phone, or dock or withhold their allowance. Food, parental visits, correspondence, or anything that is important to the child's development, such as school team sports or activities, must not be withheld.
4. ***Give Something Negative.*** Require the child to write an apology letter or provide a restorative action, such as providing a service that makes up for doing a wrong to someone.
5. ***Time Out.*** Time out is defined as taking the child away from the problem. It is intended to prevent them from being hurt or injuring others. Time out may be used only for the purpose of giving the child a short break to decompress and regain control, not as a punishment. Age and developmental level may be used to determine the length of a time out.

Time outs may require physically removing or restraining the child, when done safely for the child and the provider. Only an adult household member who has been trained in physical restraint may do so when a child, adolescent, or others are in imminent risk or danger. Physical restraint should be used as a last resort. Training will be provided to help foster care providers make appropriate decisions regarding safety. Families will also be provided with a point of contact within the [tribal foster care or licensing agency] when a child's behavior may be beyond the family's ability to discipline in a positive manner.

### ***Unacceptable Methods of Discipline***

*Note: This is not an exhaustive list. Discipline should be discussed and defined by community norms and culture.*

1. Group discipline for the misbehavior of one child
2. Directing or permitting a child to punish another child

3. Acts designed to humiliate, degrade, or undermine a child's self-esteem, including derogatory remarks about the child, the child's family characteristics, physical traits, culture, ethnicity, language, sexual orientation, gender identity, or traditions
4. Harsh or abusive discipline that may be physically or psychologically damaging to the child
5. Deprivation of parental visits or contact with other authorized individuals
6. Locking a child in a room
7. Extreme and extended isolation that restricts a child's ability to talk or socialize with others
8. Assigning extremely strenuous exercise or work
9. The use of any instrument for physical punishment, such as a paddle or belt
10. The threat of removal from the foster home to control behavior

*Note: If removal becomes necessary, it will be done as a case plan with the assigned caseworker, who will prepare the child for placement with foster providers.*

11. Deprivation of basic needs such as food, clothing, or shelter
12. Emotional deprivation, such as ignoring a child and/or not smiling, hugging, talking, or interacting with a child
13. Any hold that endangers the child or the provider

The child placed in foster care is affected by removal from their parent's or guardian's home. The child may have acute emotional or behavioral needs and may be difficult to control.

Changing behavior is a slow process requiring patience, consistency, and love. It is important for the foster care providers to set priorities and take one small step at a time.

## **Final Note**

All relative and foster care providers are subject to [tribal code, ordinance, or foster care provision] regarding child safety. Families that are licensed to care for any child in need of care, including relatives and non-relatives, are subject to the laws governing child safety and well-being and are subject to investigation and court procedures when children in their care have been abused or neglected.

The following is a sample agreement. There will be variations based on tribal licensing standards. Each tribal child-placing agency may utilize agreement forms responsive to their own particular needs.

## Sample Agreement with Foster Care Providers

The [tribal licensing or foster care authority] of the [specific tribe] and

\_\_\_\_\_  
(Foster Care Provider 1)

\_\_\_\_\_  
(Foster Care Provider 2)

\_\_\_\_\_  
(Child or Children in Care)

THE AGENCY AGREES AS FOLLOWS:

1. To inform foster care providers of agency policies and procedures concerning health emergencies.
2. To provide or arrange training for foster care providers.
3. To visit the foster home in accordance with the service plan and be available to provide or arrange services consistent with child and caregiver needs.
4. To provide foster care providers notice prior to removing a child from the foster home.
5. To include foster parents as part of the decision-making team for the child, as appropriate.

*Note: This is not an exhaustive list. Agreements should be developed based on tribal foster care standards.*

THE FOSTER CARE PROVIDERS AGREE AS FOLLOWS:

1. To accept the child/children named above for temporary foster care and maintain the child/children's health and welfare.
2. To accept the condition that any children placed for foster care in our home by the [tribal licensing or foster care authority] are placed for the purpose of their foster care only and not for the purpose of adoption by us.
3. To accept the [tribal licensing or foster care authority] decision to remove a child in foster care from our home when it deems such removal is in the child's best interest.
4. To accept the condition that the [tribal licensing or foster care agency] is responsible for

making, carrying out, or approving all plans for the children placed by them in our foster home.

5. To cooperate with the [tribal licensing or foster care agency] in such planning and to follow recommendations regarding the care, education, and training of children in foster care.
6. To allow the assigned representative of the [tribal licensing or foster care agency] to visit our home at least [specific frequency, e.g., once a month] during a mutually agreed upon time and/or to meet with a representative in the [tribal licensing or foster care agency] office.
7. To report at once to the [tribal licensing or foster care agency] any accident or unusual sickness of the children and any serious or continuous illness in the family.
8. To report to the [tribal licensing or foster care agency] any change of address or change in family composition.
9. To secure permission before making any plans for taking the children out of the state for residence or vacation plans away from the [specific tribe].
10. To contact the [designated health service and tribal licensing or foster care agency] for medical services rendered to and emergencies involving the child in foster care.
11. To contact the [tribal licensing or foster care agency] for all other emergencies.
12. To authorize the [tribal licensing or foster care agency] to investigate the medical status of our family and children to ensure the health of the child.

We certify that we have read and understand this agreement and are retaining a signed copy:

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Foster Care Provider 1/Foster Care Provider 2

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Tribal Licensing or Foster Care Authority

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Representative Date

The following is a sample questionnaire. There will be variations based on tribal licensing standards that are informed by community norms and needs. Each tribal child-placing agency may utilize forms and questionnaires responsive to their own particular needs.

## Sample Tribal Agency Foster Home Questionnaire

Name of Foster Care Provider 1: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: Home #: \_\_\_\_\_

Cell #: \_\_\_\_\_

Work #: \_\_\_\_\_

Nearest grade school: \_\_\_\_\_

Distance: \_\_\_\_\_

Name of Foster Care Provider 2: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: Home #: \_\_\_\_\_

Cell #: \_\_\_\_\_

Work #: \_\_\_\_\_

Nearest grade school: \_\_\_\_\_

Distance: \_\_\_\_\_

## Applicants

### *Foster Care Provider 1*

Birth date: \_\_\_\_\_

Place of birth: \_\_\_\_\_

\_\_\_\_\_

Tribal affiliation: \_\_\_\_\_

\_\_\_\_\_

Occupation: \_\_\_\_\_

\_\_\_\_\_

Source of income: \_\_\_\_\_

\_\_\_\_\_

Religion: \_\_\_\_\_

\_\_\_\_\_

Mode of transportation: \_\_\_\_\_

\_\_\_\_\_

Driver's license (Yes/No): \_\_\_\_\_

### *Foster Care Provider 2*

Birth date: \_\_\_\_\_

Place of birth: \_\_\_\_\_

\_\_\_\_\_

Tribal affiliation: \_\_\_\_\_

\_\_\_\_\_

Occupation: \_\_\_\_\_

\_\_\_\_\_

Source of income: \_\_\_\_\_

\_\_\_\_\_

Religion: \_\_\_\_\_

\_\_\_\_\_

Mode of transportation: \_\_\_\_\_

\_\_\_\_\_

Driver's license (Yes/No): \_\_\_\_\_

## Members in Household

<u>Name</u>	<u>Date of birth</u>	<u>Sex</u>	<u>School grade or occupation</u>	<u>Relationship</u>	<u>Mode of transportation</u>
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Background check: *(with tribal court, FBI, state/county/tribal social service agencies)*

Other: *(e.g., personal history, how they were raised, past and current relationships with family of origin and own children, recreational activities, and other information as deemed appropriate by the community)*

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