

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #4

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OFFICE WEST VIRGINIA  
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**NOTICE OF RULE MODIFICATION OF A PROPOSED RULE**

AGENCY: West Virginia Department of Health and Human Resources *Human Services* TITLE NUMBER: 78

CITE AUTHORITY: W. Va. Code §49-2-126(c)

AMENDMENT TO AN EXISTING RULE: YES  NO


IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 25

TITLE OF RULE BEING PROPOSED: Goals for Foster Children

THE ABOVE PROPOSED LEGISLATIVE RULES, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE, IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

  
Authorized Signature

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TITLE 78  
LEGISLATIVE RULE  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

SERIES 25  
Goals for Foster Children

1. General.

1.1. Scope and Purpose. -- This rule establishes and sets forth the goals for children and youth in foster care; identifies each individual goal established for children and youth in foster care; and, establishes a process by which children and youth in foster care can make their concerns known to the Circuit Court when the West Virginia Department of Health and Human Resources, Bureau for Children and Families, does not meet the goals established pursuant to provisions of W. Va. Code § 49-2-126(a) et seq.

1.2. Authority. - W. Va. Code § 49-2-126(c)

1.3 Filing date. \_\_\_\_\_, 2015

1.4 Effective date. \_\_\_\_\_, 2015

~~1.5 Purpose -- This rule sets forth the establishment of goals for children in foster care, provides process by which foster children may resolve issues of goals not completed, and, establishes due process procedures in cases when goals for foster children are not completed by the West Virginia Department of Health and Human Resources. In developing this rule, the Department has considered best practice standards which ensure better outcomes for children and youth in foster care.~~

2. Definitions.

~~2.1 Foster Care Setting - means 24-hour substitute care for children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes.~~

~~2.2 Foster Child - Child under the age of 18 or 18 to 21 if under the jurisdiction of the court, or, 18 to 21 who has signed~~

~~an agreement to remain in the care, custody and control of the West Virginia Department of Health and Human Resources,~~

~~2.3 Department - Means the West Virginia Department of Health and Human Resources.~~

~~2.4 Specialized Education - practice of educating students with special needs in a way that addresses their individual differences and needs.~~

~~2.5 Foster Family - a person certified by the West Virginia Department of Health and Human Resources, who acts as parent and guardian for a child in place of the child's natural parents but without legally adopting the child.~~

~~2.6 Extra-Curricular Activities - activities that are sponsored by and usually held at school but that are not part of the standard academic curriculum.~~

~~2.7 Transition Plan - A plan developed with a youth in foster care age 16 and up that establishes goals and a plan to help move a youth from foster care to independence.~~

2.1 Department - Means the West Virginia Department of Health and Human Resources

2.2 Emergency Shelters - Means substitute care providers who deliver short term care for children just entering the foster care system or who are between placements.

2.3 Extra-Curricular Activities - Means activities that are sponsored by and usually held at school but are not part of the standard academic curriculum.

2.4 Family Of Origin - Means The individual or family home with whom the child was residing prior to state intervention.

2.5 Foster Care Setting - Means 24-hour substitute care for children placed away from their parents or guardians and for whom the State agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, and pre-adoptive homes.

2.6 Foster Child - Means a child under the age of 18 or 18 to 21 if under the jurisdiction of the court, or, 18 to 21 who has signed an agreement to remain in the care, custody and control of the West Virginia Department of Health and Human

## Resources;

2.7 Foster Family Home - Means a person certified by the West Virginia Department of Health and Human Resources, who acts as parent and guardian for a child in place of the child's family of origin family but without legally adopting the child.

2.8 Foster Home For Relative - Means a kinship caregiver is a relative or fictive kin who provides care to a child. This is the least restrictive alternate living arrangement since the placement often allows for more interacting with the child's own family and relatives.

2.9 Group Homes - Means a group home for several foster children licensed by the state. Group homes are run by house parents, who live with the children, or by shift staff, who transfer in and out during every 24 hour period.

2.10 Pre-adoptive Home - Means a home of an individual or family licensed or approved as meeting the standards established by the Department to provide 24-hour out-of-home care for a child and is intended to be the adoptive home.

2.11 Specialized Education - Means a practice of educating students with special needs in a way that addresses their individual differences and needs.

2.12 Transition Plan - Means a plan developed with a youth in foster care age 16 and up that establishes goals and a plan to help move a youth from foster care to independence.

## **3. Goals for Foster Children.**

3.1 A child in foster care should have:

3.1.a. Protection by a family of his or her own, and be provided readily available services and support through care of an adoptive family or by plan, a continuing foster family;

3.1.b. Nurturing by foster parents who have been selected to meet his or her individual needs, and who are provided services and support, including specialized education, so that the child can grow to reach his or her potential;

3.1.c. A safe foster home free of violence, abuse, neglect and danger;

3.1.d. The ability to communicate with the assigned social worker or case worker overseeing the child's case and have calls made to the social worker or case worker returned within a reasonable period of time;

3.1.e. Permission to remain enrolled in the school the child attended before being placed in foster care, if at all possible;

3.1.f. Participation in school extracurricular activities, community events, and religious practices;

3.1.g. Communication with the family of origin. Communication is necessary if the child placed in foster care receives any immunizations and if any additional immunizations are needed, if the child will be transitioning back into a home with his or her family of origin;

3.1.h. A bank or savings account established in accordance with state laws and federal regulations;

3.1.i. Identification and other permanent documents, including a birth certificate, social security card and health records by the age of sixteen, to the extent allowed by federal and state law;

3.1.j. The use of appropriate communication measures to maintain contact with siblings if the child placed in foster care is separated from his or her siblings; and

3.1.k. Meaningful participation in a transition plan for those transitioning out of foster care.

#### **4. Means of Being Heard.**

4.1 Should a foster child believe that the goals enumerated in section three have not been met, the foster child shall notify his or her caseworker.

4.2 The foster child's caseworker shall meet with the foster child within ten (10) days and discuss why the foster child believes a goal or goals have not been met and reach a resolution.

4.3 In the event the foster child and the foster child's caseworker is unable to reach a resolution, a meeting between the foster child, the foster child's caseworker and the caseworker's supervisor shall immediately occur in an effort to reach a resolution.

4.4 In the event no resolution is agreed upon, the caseworker shall notify the foster child's attorney and the matter should be made known to the Circuit Court with jurisdiction at the next scheduled review hearing for resolution.

**5. Burden of Proof.**

5.1 In any hearing conducted pursuant to the provisions of this rule, the WV Department of Health and Human Resources, Bureau of Children Families assigned caseworker has the burden of proving that he or she has made reasonable efforts to insure goals were established, expected and pursued on behalf of the foster child or youth.