

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to Children in Need of

4 Protection or Services

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6 Rules as Adopted

7 9560.0410 SCOPE.

8 Parts 9560.0410 to 9560.0485 identify and govern the  
9 administration of local agency responsibilities for children  
10 under state guardianship in need of protection or services  
11 pursuant to Minnesota Statutes, sections 260.111 et seq., and  
12 the delegation to local agencies of the authority to grant  
13 consents.

14 9560.0420 PURPOSE.

15 The purpose of state guardianship is to carry out the  
16 responsibility to act and care for children in need of  
17 protection or services committed to the guardianship of the  
18 commissioner.

19 9560.0430 DEFINITIONS.

20 Subpart 1. **Applicability.** The terms used in parts  
21 9560.0410 to 9560.0485 have the meanings given them in this part.

22 Subp. 2. **Commissioner.** "Commissioner" means the  
23 commissioner of human services or a designee.

24 Subp. 3. **County of residence.** "County of residence" means  
25 the county in which the child is physically present:

26 A. in the home of ~~an individual who is related to the~~  
27 ~~child under Minnesota Statutes, section 245A.02, subdivision~~  
28 ~~13~~ a relative as defined in subpart 8;

29 B. in a residential program as defined in Minnesota  
30 Statutes, section 245A.02, subdivision 14; or

31 C. in an adoptive placement.

32 Subp. 4. **County of financial responsibility.** "County of  
33 financial responsibility" means the county financially  
34 responsible under Minnesota Statutes, chapter 256G, for the cost

1 of providing services to a child under state guardianship.

2 Subp. 5. **Indian child.** "Indian child" means an unmarried  
3 person under age 18 who is either a member of or eligible for  
4 membership in an American Indian tribe.

5 Subp. 6. **Local agency.** "Local agency" means the agency  
6 authorized by the county welfare or human service board to  
7 provide and ensure social services.

8 Subp. 7. **Licensed child-placing agency.** "Licensed  
9 child-placing agency" means an agency defined under Minnesota  
10 Statutes, sections 245A.02, subdivision 12; 257.351, subdivision  
11 12; and 259.21, subdivision 6, and authorized by the  
12 commissioner to place children for foster care or adoption.

13 Subp. 8. **Relative.** ~~"Relative" means an individual who is~~  
14 ~~related to a child within the third degree according to the~~  
15 ~~civil table of consanguinity by blood, marriage, or adoption as~~  
16 ~~a parent, stepparent, brother, sister, grandparent,~~  
17 ~~great-grandparent, aunt, uncle, niece, or nephew~~ has the meaning  
18 given in Minnesota Statutes, section 260.015, subdivision 13.

19 9560.0440 GENERAL RESPONSIBILITIES.

20 Subpart 1. **Financial responsibility.** The local agency in  
21 the county of financial responsibility shall provide financial  
22 assistance and shall pay the cost of services provided to a  
23 child under state guardianship.

24 Subp. 2. **Notice.** The local agency in the child's county  
25 of residence shall notify the commissioner and, for a child  
26 eligible for tribal membership, the appropriate tribe when a  
27 child is placed under state guardianship. The notice to the  
28 commissioner must be on the form prescribed by the commissioner  
29 and must be provided to the commissioner within 30 days after  
30 the child is placed under state guardianship. The notice to the  
31 appropriate tribe may be by letter.

32 Subp. 3. **Social service plan.** The local agency in the  
33 child's county of residence must develop a social service plan  
34 within 90 days after a child becomes a ward. The plan must be  
35 developed according to items A to E.

1           A. The child's social service plan under part  
2 9550.0090 must be developed by the local agency and with the  
3 child if the child is seven years of age or older and capable of  
4 articulating his or her thoughts. The plan must be reviewed at  
5 least annually by the local agency. A child seven years of age  
6 or older at the time of the annual review and capable of  
7 articulating his or her thoughts shall participate in the review.

8           B. The plan must address the emotional, health,  
9 educational, vocational, and spiritual needs of the child, and  
10 preserve, where feasible, the racial and familial identity of  
11 the child. For an Indian child, the plan must include  
12 arrangement to apply for or obtain verification of tribal  
13 membership status under Minnesota Statutes, section 257.352,  
14 subdivision 1. ~~It~~ For an Indian child or a child of minority  
15 race or minority ethnic heritage, the plan must also comply with  
16 the racial, ethnic, and religious placement preference  
17 requirements under Minnesota Statutes, sections 257.071,  
18 subdivision 1a; 259.255; 259.455; and 260.181, subdivision 3.  
19 If a child has at least one sibling, the plan must provide for  
20 preserving the sibling relationship, where feasible.

21           C. The aim of the plan must be to establish a  
22 permanent family relationship for the child through the  
23 selection of a family committed to providing a home until the  
24 child reaches majority. The plan must include the goal of  
25 adoption for a child under age 14, using the procedures required  
26 in Minnesota Statutes, section 259.45. However, if there is  
27 established a permanent family relationship between the child  
28 and the child's relative as defined in part 9560.0430, subpart  
29 8, adoption must be encouraged but is not required as a  
30 condition of permanent placement.

31           For a child age 14 or older, the child shall be counseled  
32 regarding adoption and other available permanent placement  
33 options. If the child chooses not to be adopted, the local  
34 agency shall notify the commissioner by submitting a written  
35 report and a copy of the child's affidavit in the form  
36 prescribed by the commissioner.

1 D. Any plan which permits a child to live  
2 independently without local agency guidance does not relieve a  
3 local agency of its responsibility to be aware of the child's  
4 needs and provide for them if necessary.

5 E. The goals, plans, and objectives for children  
6 under the supervision of licensed child-placing agencies must be  
7 made only with the agreement of the local agency in the child's  
8 county of residence after notification to the county of  
9 financial responsibility, if different from the county of  
10 residence.

11 Subp. 3a. **Review of social service plan.** Within two weeks  
12 after a child's move into a county, the county's local agency  
13 must review the social service plan developed by the local  
14 agency in the child's previous county of residence to determine  
15 the continued applicability of the plan.

16 The local agency in the child's new county of residence may  
17 approve or disapprove the plan. If the local agency disapproves  
18 the plan, it must notify the local agency in the child's  
19 previous county of residence and the county of financial  
20 responsibility, if different from the county of residence. If,  
21 after 45 days, the local agency and the local agency in the  
22 child's previous county of residence continue to disagree as to  
23 the plan, the local agency may change the plan after receiving  
24 written approval of the change from the commissioner.

25 Subp. 4. **Change in child's county of residence.** Before a  
26 child moves to a new county, the local agency in the child's  
27 current county of residence shall notify the new county's local  
28 agency and, if applicable, the Indian child's tribe of the  
29 change in the child's residence. The notification must be in  
30 writing and must indicate that the new county's local agency  
31 shall assume responsibility for implementing the social service  
32 plan developed under subpart 3. If the child's new county of  
33 residence does not become the county of financial  
34 responsibility, the child's new county of residence shall  
35 provide reports requested by the local agency in the county of  
36 financial responsibility. Payment responsibilities for services

1 provided to the child by the child's new county of residence are  
2 governed by Minnesota Statutes, chapter 256G.

3 Subp. 5. **Appointment of guardian ad litem.** The local  
4 agency in the child's county of residence shall assure the  
5 appointment of a guardian ad litem to represent the child under  
6 state guardianship:

7 A. when the child has a legal claim against another  
8 party;

9 B. when the child has an interest in an existing  
10 legal action;

11 C. when an action has been instituted against the  
12 child by another; and

13 D. in all other instances when the best interest of  
14 the child requires legal counsel.

15 9560.0450 CONSENTS.

16 Subpart 1. **Delegated consents.** The following consents are  
17 delegated to local agencies:

18 A. autopsy;

19 B. baptism or other similar religious rites;

20 C. medical treatment, except for subpart 2, item H;

21 D. mental health services, including treatment with  
22 psychotropic medications;

23 E. application for marriage license;

24 F. admission to a regional treatment center or other  
25 inpatient mental health facility to the extent permitted under  
26 law;

27 G. giving the body or parts of the body to science  
28 after death;

29 H. out-of-state or out-of-country travel for more  
30 than 30 days, but less than 90 days, including application for  
31 passports and visas necessary for travel;

32 I. permanent placement agreement on a child over 14  
33 years of age;

34 J. application for driver's permit or driver's  
35 license;

1 K. petition to transfer guardianship;  
 2 L. petition for change of name;  
 3 M. surgical treatment;  
 4 N. publicity about the child;  
 5 O. enlistment in the armed services, peace corps, or  
 6 job corps; and  
 7 P. request for tuition waiver under Minnesota  
 8 Statutes, section 136.11, subdivision 1, or as allowed by Number  
 9 3.3.2.5 of the Minnesota Board of Vocational Technical  
 10 Education's System Policy Manual, approved May 10, 1988. This  
 11 manual is incorporated by reference and is subject to frequent  
 12 change. It is available at the Minnesota State Law Library,  
 13 Minnesota Judicial Center, 25 Constitution Avenue, Saint Paul,  
 14 Minnesota 55155.

15 Subp. 2. **Nondelegated consents.** All consents not  
 16 specifically delegated to local agencies may be issued only by  
 17 the commissioner. The consents not specifically delegated  
 18 include:

19 A. adoption;  
 20 B. taking or sending a child out of Minnesota for  
 21 purposes of placing a child in foster care or adoption;  
 22 C. out-of-state or out-of-country travel for 90 days  
 23 or more;  
 24 D. giving a part of the body for therapeutic purposes  
 25 for another person while the child is living;  
 26 E. transfer from one regional treatment center to  
 27 another regional treatment center;  
 28 F. sterilization;  
 29 G. separation of siblings; and  
 30 H. requests that the child not be resuscitated or  
 31 intubated.

32 9560.0460 DISPOSITION OF SOCIAL WELFARE FUND.

33 The local agency in the county of financial responsibility  
 34 may accept gifts, contributions, pensions, benefits and  
 35 inheritance on behalf of a child under state guardianship. The

1 money received by the local agency may be applied to the  
2 maintenance and support of the child. The unspent portion of  
3 the money must be held in trust and invested through the social  
4 welfare fund under Minnesota Statutes, sections 256.88 to 256.91.

5 When a ward is legally adopted, is discharged from  
6 guardianship, or dies, the remaining funds in the social welfare  
7 fund must be paid as provided in Minnesota Statutes, section  
8 256.91.

9 9560.0470 STATE GUARDIANSHIP ASSISTANCE UP TO AGE 21.

10 The local agency in the child's county of residence shall  
11 provide a child who has reached the age of 16 years with social  
12 services and access to financial assistance to help the child  
13 develop independent living skills. An individual who is under  
14 state guardianship at age 18 continues to be eligible for social  
15 services and access to financial assistance up to age 21 if the  
16 individual is incapable of self-sustaining employment or is in  
17 need of continuing education or training beyond high school.

18 For the purposes of this part, social services include  
19 counseling, training in independent living skills, and access to  
20 community resources.

21 Six months before a child under state guardianship reaches  
22 age 18, the local agency in the child's county of residence  
23 shall inform the child, in writing, of the child's right to  
24 request the continuation of social services and access to  
25 financial assistance beyond age 18.

26 9560.0475 ADMINISTRATIVE REVIEWS AND DISPOSITIONAL HEARINGS.

27 The local agency in the child's county of residence shall  
28 conduct administrative reviews of the child's social service  
29 plan under Minnesota Statutes, section 257.071, subdivision 2,  
30 at least every six months while the child is under state  
31 guardianship, in foster care, or in an adoptive placement. A  
32 court of competent jurisdiction shall, upon its own motion or  
33 that of the child's guardian, conduct a dispositional hearing  
34 under Minnesota Statutes, section 260.242, subdivision 2,  
35 paragraph (d), within 18 months after the child is placed in

1 foster care and once every two years thereafter to determine the  
2 future status of the child. When the child is placed in an  
3 adoptive home, a dispositional hearing shall be sought if the  
4 child is removed from the adoptive home or is not legally  
5 adopted within two years of the adoptive placement. The local  
6 agency in the child's county of residence shall notify an Indian  
7 child's tribe of any administrative review or dispositional  
8 hearing.

9 9560.0480 GUARDIANSHIP RECORDS.

10 Subpart 1. Content. The local agency shall maintain a  
11 record on each child for whom it is responsible. The record  
12 must contain:

13 A. copies of all court findings and orders affecting  
14 custody, termination of parental rights, and assignment of  
15 guardianship to the commissioner;

16 B. data on the background and health history of the  
17 child and the child's birth family;

18 C. data on the background of the child's adoptive  
19 family if a previous adoption has occurred;

20 D. copies of notices to an Indian child's tribe  
21 whenever the child is placed in a home of a relative, a  
22 residential program or an adoptive home, as well as when there  
23 is an administrative review or court disposition;

24 E. documentation of the child's eligibility for  
25 benefits and services under title IV-E of the Social Security  
26 Act and other provisions of state and federal law, unless the  
27 child is no longer a ward or is at least age 21; and

28 F. all other information required by Minnesota  
29 Statutes, section 257.01.

30 Subp. 2. Retention. The record required under subpart 1  
31 must be retained on a permanent basis using a record system that  
32 ensures privacy and lasting preservation.

33 Subp. 3. Use of information. Unless state law requires a  
34 different classification, all information on a child must be  
35 maintained by the local agency in the child's county of



1 residence as private data and disseminated according to the  
2 Minnesota Government Data Practices Act, Minnesota Statutes,  
3 chapter 13. Unless state law requires a different  
4 classification, all information on a child who is subsequently  
5 adopted must be maintained as confidential data under Minnesota  
6 Statutes, section 259.46, subdivision 1.

7 9560.0485 POSTGUARDIANSHIP SERVICES.

8       **Subpart 1. Postguardianship assistance.** Upon a written  
9 request, the local agency or, when appropriate, the former  
10 supervising agency, shall provide postguardianship services to  
11 former wards of the commissioner. Postguardianship services  
12 include:

13           A. dissemination of information from the agency  
14 record on a former ward's background, health and placement  
15 history;

16           B. search assistance in locating and establishing  
17 contact with a former ward's relatives; and

18           C. counseling on issues related to guardianship or  
19 referral to appropriate counseling services.

20       **Subp. 2. Documentation of postguardianship services.** The  
21 local agency shall document in the agency's guardianship record  
22 the postguardianship services provided.

23       **Subp. 3. Reimbursement.** The local agency may require the  
24 former ward to provide a reasonable expense reimbursement based  
25 on a former ward's ability to pay for providing postguardianship  
26 services.