

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to Foster Care for Children

4

5 Rules as Adopted

6 9560.0500 SCOPE.

7 Parts 9560.0500 to 9560.0670 govern the administration and  
8 provision of foster care to children and their families by the  
9 local agency that has placement and supervisory responsibilities.

10 9560.0510 PURPOSE OF FOSTER CARE SERVICES.

11 The purpose of foster care is to provide substitute family  
12 or group care for a child while an intensive effort is made to  
13 correct or improve the conditions causing placement and to  
14 reunite the family or, if the child cannot be returned home, to  
15 provide some other permanent plan.

16 Foster care may be provided only after services to prevent  
17 the need for placement of a child in foster care have been  
18 considered, provided, or refused by the child's family.

19 9560.0521 DEFINITIONS.

20 Subpart 1. **Scope.** The terms used in parts 9560.0500 to  
21 9560.0670 have the meanings given them in this part.

22 Subp. 2. **Administrative review.** "Administrative review"  
23 means a review open to participation of the parents or guardian  
24 and conducted by a panel of appropriate persons, at least one of  
25 whom is not responsible for the case management of or the  
26 delivery of services to the child, parents, or guardian.

27 Subp. 3. **Child.** "Child" means a person under the age of  
28 18.

29 Subp. 4. **Commissioner.** "Commissioner" means the  
30 commissioner of human services or the commissioner's designated  
31 representative.

32 Subp. 5. **Custodian.** "Custodian" means a person who is  
33 under a legal obligation to provide care and support for a child  
34 or who is in fact providing care and support for a child. For

1 an Indian child, custodian means any Indian person who has legal  
2 custody of an Indian child under tribal law or custom or under  
3 state law or to whom temporary physical care, custody, and  
4 control have been transferred by the parent of the child, as  
5 provided in Minnesota Statutes, section 257.351, subdivision 8.

6 Subp. 6. Department. "Department" means the Minnesota  
7 Department of Human Services.

8 Subp. 7. Difficulty of care payment. "Difficulty of care  
9 payment" means a supplemental maintenance payment determined by  
10 the local agency and based upon an assessment of the child's  
11 special needs due to existing physical, mental, or emotional  
12 handicaps. A difficulty of care payment does not include  
13 payment for services rendered by a licensed foster parent.

14 Subp. 8. Dispositional hearing. "Dispositional hearing"  
15 means a hearing held by a family or juvenile court, a tribal  
16 court, or another court of competent jurisdiction, or by an  
17 administrative body appointed or approved by the court, to  
18 determine the future status of the child, including whether the  
19 child should be placed for adoption or kept in foster care  
20 temporarily or on a long-term basis.

21 Subp. 9. Foster care. "Foster care" means the  
22 24-hour-a-day care of a child following placement by the  
23 commissioner or a licensed child-placing agency with legal  
24 placement responsibility pursuant to a court order or voluntary  
25 placement agreement, in any facility that regularly provides one  
26 or more children, when unaccompanied by ~~their~~ a parent or  
27 guardian, with a substitute for the care, food, lodging,  
28 training, education, supervision, or treatment they need  
29 ~~but which~~ for which any reason cannot be furnished by ~~their~~ a  
30 parent or guardian in ~~their-homes~~ the child's home.

31 Subp. 10. Foster care maintenance payments. "Foster care  
32 maintenance payments" means payments to cover the cost of a  
33 child's food, clothing, shelter, daily supervision, school  
34 supplies, and personal incidentals, and reasonable travel to the  
35 child's home for visitation. In the case of institutional care,  
36 the term includes the reasonable costs of administration and

1 operation of the institution.

2 Subp. 11. **Foster care provider.** "Foster care provider"  
3 means a person or entity licensed to provide foster care.

4 Subp. 12. **Foster family home.** "Foster family home" means  
5 a family licensed under parts 9545.0010 to 9545.0260 to provide  
6 foster care in their home for children.

7 Subp. 13. **Guardian or legal guardian.** "Guardian" or  
8 "legal guardian" means a person appointed by a parent's will or  
9 by the court to have the powers and responsibilities of a  
10 parent, except that the guardian is not legally obligated to  
11 provide support for the ward out of the guardian's own funds.

12 Subp. 14. **Indian child.** "Indian child" means an unmarried  
13 person under the age of 18 who is either a member of or eligible  
14 for membership in an Indian tribe.

15 Subp. 15. **Legal custody.** "Legal custody" means the right  
16 to the care, custody, and control of a child as defined in  
17 Minnesota Statutes, section 260.015, subdivision 8.

18 Subp. 16. **Local social service agency or local agency.**  
19 "Local social service agency" or "local agency" means the social  
20 services agency authorized by the county board to provide social  
21 services and financial assistance under Minnesota Statutes,  
22 section 393.07.

23 Subp. 17. **Parent.** "Parent" means a child's parent by  
24 birth or adoption. For an Indian child, parent includes any  
25 Indian person who has adopted a child by tribal law or custom,  
26 as provided in Minnesota Statutes, section 257.351, subdivision  
27 11.

28 Subp. 18. **Placement plan.** "Placement plan" means the  
29 written plan as specified in part 9560.0603 for a child in  
30 placement.

31 Subp. 19. **Relative.** "Relative" means an individual who is  
32 related to the child and also includes members of the child's  
33 extended family and important friends as noted in Minnesota  
34 Statutes, section 260.181, subdivision 3.

35 Subp. 20. **Residential facility.** "Residential facility"  
36 means any group home, family foster home, or other publicly

1 supported out-of-home residential facility, including any  
2 out-of-home residential facility licensed by the state, county,  
3 or other political subdivision, or any agency thereof, to  
4 provide foster care.

5 Subp. 21. Voluntary placement. "Voluntary placement"  
6 means an out-of-home placement of a child by or with  
7 participation of the local agency, after the child's parent or  
8 guardian has requested the assistance of the agency and signed a  
9 voluntary placement agreement.

10 Subp. 22. Voluntary placement agreement. "Voluntary  
11 placement agreement" means a written agreement between the local  
12 agency and the parent or guardian of a child, which specifies  
13 the legal status of the child and the rights and obligations of  
14 the parent or guardian, the child, and the local agency.

15 9560.0523 AUTHORITY FOR CHILD'S PLACEMENT BY LOCAL AGENCY.

16 A local agency obtains authority to place a child in foster  
17 care:

- 18 A. through a voluntary placement agreement; or
- 19 B. by a court order granting legal custody; ~~or~~
- 20 ~~C. if the child is in imminent danger of harm,~~
- 21 ~~pursuant to Minnesota Statutes, section 260.165.~~

22 9560.0525 LOCAL AGENCY GIVEN LEGAL CUSTODY BY COURT.

23 When a court has given legal custody of a child to a local  
24 agency, the local agency must:

- 25 A. place the child according to the court order;
- 26 B. before expiration of the court order, send written  
27 reports to the court giving information, evaluations, and  
28 recommendations to help the court make decisions about the child  
29 and the child's family;
- 30 C. notify the court and the child's parent or  
31 guardian if the child is placed out of the jurisdiction of the  
32 court;
- 33 D. inform the foster care providers of court hearings  
34 that pertain to any foster child in their care, by sending  
35 advance written notice by mail to the foster care providers of

1 the date, time, location, and purpose of any court hearing. The  
 2 notice shall contain a statement that receipt of the notice does  
 3 not confer standing on the foster care provider to participate  
 4 at the hearing;

5 E. request the court's permission for any special  
 6 treatment and care if the child's parent or guardian fails to  
 7 provide it;

8 F. obtain the consent of the court before terminating  
 9 foster care and returning the child to the family; and

10 G. obtain the written consent of the child's parent  
 11 or guardian and the court if a child is to be placed in a  
 12 facility foster care outside the state. If the child's parent  
 13 or guardian refuses consent, the court's written consent is  
 14 sufficient authorization for placement outside the state.

15 9560.0527 LOCAL AGENCY PLACING CHILD UNDER VOLUNTARY AGREEMENT.

16 When a local agency places a child in foster care under a  
 17 voluntary placement agreement, the local agency must:

18 A. before placement, obtain the written consent of  
 19 both parents, or the legal guardian, unless placement is in the  
 20 child's best interest and the other parent's signature is  
 21 unobtainable;

22 B. if only one parent signs the agreement, the agency  
 23 must document why the other parent did not sign the agreement;

24 C. in addition, in the case of an Indian child,  
 25 advise the parent or custodian that the child is to be returned  
 26 upon demand in a written and dated statement complying with the  
 27 requirements of Minnesota Statutes, section 257.351, subdivision  
 28 4, and notify the Indian child's tribe within seven working days  
 29 of placement;

30 D. obtain the agreement of the non-Indian child's  
 31 parent or guardian to notify the local agency, ~~preferably~~ in  
 32 ~~writing,~~ a written and dated statement if the parent or guardian  
 33 wishes the child returned from placement before the date  
 34 specified in the voluntary placement agreement; and

35 ~~D.--obtain-the-agreement-of-the-Indian-child's-parent~~

1 ~~or guardian to notify the local agency in a written and~~  
 2 ~~notarized statement, and~~

3 E. return the child to the child's parent or guardian  
 4 within as soon as possible and no later than 24 hours of receipt  
 5 of notice, preferably in writing, after receiving a written and  
 6 dated demand for return of the child unless a longer response  
 7 time is specified in the demand for any child, or in the  
 8 voluntary placement agreement ~~or the notice~~ for a non-Indian  
 9 child; for Indian children, the ~~notice~~ demand must be a written  
 10 and ~~notarized~~ dated statement complying with the requirements of  
 11 Minnesota Statutes, section 257.351, subdivision 4.

12 9560.0529 PLACEMENT IN LICENSED FACILITY.

13 A local agency authorized to place a child in foster care  
 14 must place the child in a licensed residential facility, in the  
 15 home of a relative who is undergoing or who will later undergo  
 16 evaluation for an emergency license, under Minnesota Statutes,  
 17 section 245A.03, subdivision 2a, or in some other facility as  
 18 permitted by the licensing statute, Minnesota Statutes, chapter  
 19 245A.

20 9560.0532 REMOVAL OF CHILDREN.

21 An agency ~~may seek removal of children~~ seeking to remove a  
 22 child from the child's home must do so pursuant to procedures  
 23 specified in parts 9560.0210 to 9560.0485 and Minnesota  
 24 Statutes, sections 260.015, 260.165, and 260.181.

25 9560.0535 LOCAL AGENCY SEARCH FOR RELATIVES.

26 Subpart 1. Search for relatives required. The local  
 27 agency must search for relatives with whom to place a child,  
 28 unless the child's parent specifically objects.

29 Subp. 2. Parental objection to relative search. If a  
 30 child's parent specifically objects to the search for relatives,  
 31 the local agency must, without contacting relatives, evaluate  
 32 and address the parent's concerns by considering:

33 A. the child's and the parent's or guardian's  
 34 preferences about relatives and the reasons for those

1 preferences;

2 B. if there are specific relatives the parent does  
3 not want contacted, whether there are other relatives who may be  
4 contacted;

5 C. whether any relatives have offered to care for the  
6 child;

7 D. whether placement with relatives would interfere  
8 with the parent's ability to follow a placement plan; and

9 E. in the case of an Indian child, the tribe's  
10 position on contacting the relatives.

11 If a parent still objects to the relative search, the  
12 agency must notify the juvenile court of the ~~parents'~~ parent's  
13 reasons for objecting. The agency must ~~tell-parents~~ send each  
14 parent a copy of the notification to the court. The local  
15 agency may not contact the child's relatives unless ordered to  
16 do so by the court.

17 In the case of an Indian child, the agency must seek a  
18 relative placement unless the court has determined that there is  
19 good cause under the Indian Child Welfare Act, United States  
20 Code, title 25, chapter 21, subchapter I, section 1915, not to  
21 do so. The preference of the Indian child, parent, or guardian  
22 custodian must be considered in accordance with the Indian Child  
23 Welfare Act.

24 Subp. 3. Initiation of search for relatives. For ~~at-least~~  
25 six months following the child's first placement, the agency  
26 must search for the child's relatives, even if the first  
27 placement is with a relative, ~~and may~~. The agency is permitted  
28 to continue the search thereafter as-necessary only if it  
29 determines it is in the best interests of the child or if the  
30 court orders it to do so. The agency must thoroughly document  
31 the search efforts. If a subsequent placement becomes necessary  
32 and other relatives might be available as foster care providers,  
33 the local agency must renew the search for those relatives.  
34 Pursuant to Minnesota Statutes, section 260.191, subdivision 3a,  
35 the court will review the agency's efforts to search for  
36 relatives and may order the agency to continue recruitment of

1 relatives if the agency has not performed the search properly.

2 Subp. 4. Special efforts for relative search. As required  
3 by Minnesota Statutes, section 257.072, subdivision 1, a local  
4 agency must make special efforts to recruit a relative custodian  
5 or foster care provider. To make special efforts, the local  
6 agency must:

7 A. question the child, the child's parents or  
8 guardians, and the child's guardian ad litem, if any, about the  
9 child's relatives and their preferences about the relatives;

10 B. in the case of an Indian child, request the  
11 child's tribe to provide the names of the child's extended  
12 family in accordance with the Indian Child Welfare Act, United  
13 States Code, title 25, chapter 21, subchapter I, section 1915.  
14 The local agency must defer to tribal judgment as to suitability  
15 of a relative's home when the tribe has intervened pursuant to  
16 the Indian Child Welfare Act;

17 C. contact relatives and divulge only that  
18 information necessary for them to consider possible placement,  
19 and request names of other relatives if necessary; and

20 D. with the written consent of the parent or guardian  
21 for release of information about the child, or by order of the  
22 court, consult with:

23 (1) persons, other than those in the local  
24 agency, providing services to the child or the child's family;  
25 and

26 (2) other persons who know the child's family.

27 Subp. 5. Other sources of information. With the written  
28 consent of the parent or guardian for release of information  
29 about the child, the agency may contact the Office of the  
30 Ombudsperson for Families, the state ethnic council related to  
31 the child's ethnicity, and other potential sources of  
32 information about the child's relatives.

33 ~~9560-0545~~ 9560.0542 CONSIDERATION OF THE CHILD'S HERITAGE.

34 ~~Consideration-of-the-race,-color,-or-national-origin-of-the~~  
35 ~~child-or-foster-care-provider-in-making-a-placement-is~~



1 ~~permissible-only-when-a-narrowly-tailored,-individualized~~  
 2 ~~determination-has-been-made-that-the-facts-and-circumstances~~  
 3 ~~require-consideration-of-race,-color,-or-national-origin-to~~  
 4 ~~advance-the-best-interests-of-the-child.~~ For an Indian child,  
 5 the Indian Child Welfare Act controls the placement. In all  
 6 other cases, an agency may consider the cultural, ethnic, or  
 7 racial background of the child and the capacity of the  
 8 prospective foster care provider to meet the needs of the child  
 9 as one of a number of factors used to determine the best  
 10 interests of the child. The agency must not delay placement of  
 11 the child solely to search for a same-race family.

12           A. In selecting the foster care provider most  
 13 suitable for the child, the agency may consider the child's:

- 14                   (1) current functioning and behavior;
- 15                   (2) medical, educational, and developmental
- 16 needs;
- 17                   (3) history and past experience;
- 18                   (4) cultural and racial identity needs;
- 19                   (5) interests and talents; and
- 20                   (6) other needs and characteristics.

21           B. The agency may also consider a foster care  
 22 provider's ability to:

- 23                   (1) form a relationship with the child;
- 24                   (2) help the child integrate with the family;
- 25                   (3) accept the child's background and help the
- 26 child cope with the child's past;
- 27                   (4) accept the behavior and personality of the
- 28 child;
- 29                   (5) validate the child's cultural, racial, and
- 30 ethnic background;
- 31                   (6) meet the child's educational, developmental,
- 32 or psychological needs; and
- 33                   (7) meet any other needs of the child.

34 ~~9560-0542~~ 9560.0545 DOCUMENTATION OF PLACEMENT EFFORTS.

35           Subpart 1. General requirements. The local agency must

1 document in the child's case record:

2 A. the date the agency began its search for  
3 relatives;

4 B. the effort made to place the child with a relative  
5 and the results of the effort;

6 C. the effort to place the child in the least  
7 restrictive or most family-like setting, as required under title  
8 IV-E of the Social Security Act, United States Code, title 42,  
9 sections 470 to 476;

10 ~~D. whether-it-has-been-determined-that-consideration~~  
11 ~~of-race,-color,-or-national-origin-is-necessary-to-advance-the~~  
12 ~~best-interests-of-the-child-and,-if-so,-the-factors-supporting~~  
13 ~~the-determination~~ all the factors used in making the placement  
14 decision, including race, color, or national origin if it has  
15 been determined under part 9560.0542 that consideration of such  
16 factors is in the best interests of the child; an Indian child's  
17 heritage must always be considered; and

18 E. in the case of an Indian child, the identity of  
19 the child's tribe and the actions taken to conduct a diligent  
20 search pursuant to the Indian Child Welfare Act, United States  
21 Code, title 25, chapter 21, subchapter I, section 1915.

22 Subp. 2. Requirements for court-ordered placement. For  
23 court-ordered placements, the local agency must place in the  
24 child's record copies of the court's findings, decisions,  
25 disposition of the case, and any other information that may aid  
26 the local agency in providing services to the child.

27 9560.0552 DECISIONS ABOUT CHILD IN FOSTER CARE.

28 Subpart 1. Written agreement. The placement plan or the  
29 voluntary placement agreement must specify the decisions that  
30 the local agency will make and the decisions that require  
31 consent of the court, parent, or guardian.

32 Subp. 2. Request to court for authorization. If the  
33 child's parent or guardian refuses to consent to decisions  
34 essential to the child's well-being, the local agency must seek  
35 a court order authorizing the local agency to act for the

1 child. If there is a question about whether a decision requires  
2 parental or judicial consent, the agency must consult the court.

3 9560.0560 RELATIONSHIP TO SCHOOLS AND OTHER AGENCIES.

4 Subpart 1. [See repealer.]

5 Subp. 2. Contact with the child's schools. The local  
6 agency must notify the present school of a child in foster care  
7 of any change in the child's address and custodian and the date  
8 on which the change occurred or will occur. The local agency  
9 must notify the present school and the school the child may  
10 attend if there is to be a change in the child's enrollment.

11 Subp. 3. Contact with the local agency of another county.  
12 A local agency that wants to place a child in another county  
13 must request the approval of that county's local agency before  
14 making the placement. If the local agency receiving the request  
15 agrees to the placement, both local agencies must agree in  
16 writing about the responsibilities for services to be delivered  
17 to the child, progress reports, procedures for handling foster  
18 care payments, and other matters they deem important.

19 9560.0580 SERVICE REQUIREMENTS.

20 A local agency that places a child in foster care must:

21 A. provide at least one preplacement visit for the  
22 child unless the child is placed because of an emergency or is  
23 under six months old;

24 B. provide social services to the child as necessary  
25 to meet the child's needs;

26 C. provide social services to the child's family as  
27 necessary to:

28 (1) remedy the conditions that caused placement;  
29 and

30 (2) prepare for the child's return home or, if  
31 return home is not possible, involve the family in making an  
32 alternative plan;

33 D. assist the foster care providers in meeting the  
34 needs of the child; and

35 E. provide follow-up services to the family and child

1 when if the child returns home.

2 9560.0590 WAIVER.

3 The local agency may disregard those requirements listed  
4 under part 9560.0580 that are not applicable for children under  
5 state guardianship or for placements of children in emergency  
6 facilities. The agency may also disregard those requirements  
7 under part 9560.0580 which may be contrary to the child's best  
8 interests but must document the rationale behind such waivers.

9 9560.0600 PROVISION FOR MEETING HEALTH NEEDS.

10 The local agency must meet the health and dental needs of  
11 every child by:

12 A. assuring that each child has had a health  
13 examination in the 12 months before initial placement or has an  
14 examination within 30 days after placement;

15 B. assuring that a child's ongoing health and dental  
16 needs are met and that the child has at least one health  
17 examination per year while in placement;

18 C. assuring that a Child and Teen Checkup is offered  
19 or provided pursuant to parts 9505.1693 to 9505.1748 to a child  
20 eligible for the medical assistance program;

21 D. giving the foster care provider information about  
22 the child's immunizations and other pertinent health data with  
23 instructions for the record to be kept up to date; and

24 E. giving the foster care provider a written  
25 authorization for obtaining routine health care for the child  
26 with clear instructions as to which health care provider is to  
27 treat the child and who is responsible for payment.

28 9560.0603 PLACEMENT PLAN.

29 Subpart 1. Placement plan required. A local agency must  
30 prepare a written placement plan for the child within 30 days of  
31 placement.

32 Subp. 2. Preparation of plan. Placement plans must comply  
33 with Minnesota Statutes, section 257.071, subdivision 1. Plans  
34 for court-ordered placements must also comply with Minnesota

1 Statutes, section 260.191, subdivision 1e.

2 Subp. 3. **Signing of plan.** The plan must be signed by the  
3 agency, the parents, the foster care provider, and, if able to  
4 understand the meaning of the agreement, the child.

5 Subp. 4. **Components of placement plan; general.** A child's  
6 placement plan must set forth:

7 A. the reasons for placement of the child, including  
8 a description of the problems or conditions in the home that  
9 caused placement of the child, and services provided to prevent  
10 placement;

11 B. placement options that were considered, the  
12 reasons the specific foster care provider was chosen for the  
13 child, with ~~comments on~~ documentation of the search for the  
14 child's relatives, ~~and the child's racial or ethnic heritage.~~  
15 ~~If applicable, the plan must address why the child was placed in~~  
16 ~~an institution or group home rather than in a family foster~~  
17 home. If the child was placed in another county or state, the  
18 plan must address why the child was not placed in the child's  
19 local county;

20 C. the specific actions to be taken by the child, the  
21 child's parent or guardian, or foster care provider to correct  
22 the problems or conditions identified in item A and the period  
23 in which the actions are to be taken;

24 D. the financial responsibilities and obligations, if  
25 any, of the parent or guardian for the support of the child in  
26 placement;

27 E. the need of the child and the child's family for  
28 care, treatment, or rehabilitation;

29 F. the services requested or needed by the child, the  
30 child's parent or guardian, and foster care provider, the  
31 services to be provided and who will provide them, or the  
32 reasons for denying the services;

33 G. the visitation rights and obligations of the  
34 parents, guardians, and other relatives if the visitation is  
35 consistent with the best interest of the child;

36 H. the specific efforts the local agency will make to

1 reunite the family;

2 I. the decisions about the child that the local  
3 agency will make and the decisions requiring consent of the  
4 parents or guardian;

5 J. the authority and responsibility of the foster  
6 care provider to arrange for the education of the child and to  
7 meet with teachers regarding the child's progress;

8 K. the notice required under subpart 7; and

9 L. the date on which the child is expected to return  
10 home.

11 Subp. 5. Information to foster care provider. The local  
12 agency must fully inform the foster care provider of the  
13 provisions in the plan.

14 Subp. 6. Assistance from social services, legal counsel,  
15 or guardian ad litem. The local agency must advise the child  
16 and, the parent or guardian, and any grandparent with the right  
17 to participate under Minnesota Statutes, section 260.155,  
18 subdivision 1a, that they may consult any person or social  
19 services agency in preparation of the placement plan; that the  
20 parent and child each has the right to legal counsel in the  
21 preparation of the placement plan; and that the child has the  
22 right to a guardian ad litem as set forth in Minnesota Statutes,  
23 section 260.155, subdivision 4.

24 Subp. 7. Notice to parents. The local agency must inform  
25 the child's parent or guardian:

26 A. about the conditions that must be corrected to  
27 assure the child's return home;

28 B. that the inability or unwillingness of the parent,  
29 guardian, or child to correct the conditions leading to the  
30 child's placement may result in a petition to the court to  
31 terminate parental or custodial rights;

32 C. the right of the parents or guardians to receive  
33 notice if the local agency petitions the court for a termination  
34 of parental rights in accordance with Minnesota Statutes,  
35 sections 260.221 to 260.241. In this event, the local agency  
36 must document in the child's case record that it gave the

1 required notice to the child and the child's parents or  
2 guardians.

3 Subp. 8. Notice to child. The local agency must explain  
4 the placement plan and any subsequent changes in the plan to the  
5 child in a manner appropriate to the child's age.

6 9560.0606 AGENCY REVIEW.

7 Subpart 1. Change in placement. The local agency must not  
8 change a child's placement unless it determines that another  
9 placement is in the best interest of the child. For Indian  
10 children, best interests must be determined in accordance with  
11 placement preferences in the Indian Child Welfare Act. If the  
12 local agency changes the placement, it must notify the child's  
13 parent or guardian and document the reasons for the change. If  
14 placement with a specific foster care provider was ordered by  
15 the court, the local agency must ~~request~~ obtain the court's  
16 permission before changing that placement, except in  
17 emergencies. In emergency changes of court-ordered placement,  
18 the agency must, as soon as possible, notify the court of the  
19 change and bring the matter before the court for its approval of  
20 the change.

21 Subp. 2. Administrative review. All cases must be  
22 reviewed by an administrative panel at least once every six  
23 months. The review must be open to the parent or guardian, the  
24 child, and the foster care provider. The review must determine:

25 A. whether the placement remains necessary and  
26 appropriate;

27 B. the extent of compliance with the placement plan;

28 C. the extent of progress which has been made toward  
29 mitigating the causes for placement in foster care; and

30 D. the date by which the child may be returned to the  
31 home or a permanent placement may be made.

32 As an alternative, the local agency may bring a petition  
33 for review of a voluntary placement pursuant to Minnesota  
34 Statutes, section 260.131. A dispositional hearing may  
35 substitute for the administrative review as long as

1 administrative review requirements are met, but an  
2 administrative review cannot substitute for a dispositional  
3 hearing.

4 9560.0609 COURT REVIEW OF VOLUNTARY PLACEMENTS.

5 Subpart 1. **Definitions.** For purposes of this part,  
6 "developmentally disabled" and "emotional handicap" have the  
7 meanings given them in Minnesota Statutes, section 257.071,  
8 subdivision 4.

9 Subp. 2. **Initial court review of voluntary placements.** If  
10 a child has been in voluntary placement for 18 months because of  
11 a developmental disability or for six months because of an  
12 emotional handicap, the local agency must either return the  
13 child home or petition the court under Minnesota Statutes,  
14 section 260.131, for review of the placement. For all other  
15 voluntary placements, the local agency must return the child  
16 home or file a petition for review within six months of the  
17 child's placement pursuant to either Minnesota Statutes, section  
18 260.131, or a petition to terminate parental rights under  
19 Minnesota Statutes, section 260.231.

20 Subp. 3. **Subsequent reviews.** If the court approves the  
21 voluntary placement of a child because of either a developmental  
22 disability or emotional handicap, the local agency must petition  
23 the court under Minnesota Statutes, section 260.131, for one  
24 further review within two years of the initial review and for  
25 additional further reviews within every two years thereafter.  
26 In all other voluntary placements which the court has approved,  
27 the local agency must petition request that the court for  
28 conduct further review six months after the initial preceding  
29 review if the child continues in placement.

30 Subp. 4. **Update of child's placement plan.** The local  
31 agency must update the child's placement plan and prepare a  
32 specific plan for permanency when filing a petition for review.

33 9560.0613 COURT REVIEW OF COURT-ORDERED PLACEMENTS.

34 Subpart 1. **Petition Request** for court review of  
35 court-ordered placement. For a child in court-ordered



1 placement, the local agency must ~~petition~~ request the court for  
 2 review six months after the initial placement. The agency must  
 3 ensure that further reviews take place within each six-month  
 4 period thereafter during the continuation of placement to  
 5 determine whether continued out-of-home placement is necessary  
 6 or whether the child should be returned home.

7 Subp. 2. Filing for permanent placement determination by  
 8 court. ~~No-later-than-11-months-after-a-child-is-placed-under-a~~  
 9 ~~court-order,~~ The local agency must request the county attorney  
 10 to file ~~a-pleading~~ pleadings to establish the basis for a  
 11 permanent placement determination, ~~-containing~~ in a manner that  
 12 allows for court review no later than 12 months after a child is  
 13 placed in a residential facility by court order. Alternatively,  
 14 the agency may request filing of pleadings recommending a delay  
 15 in the permanent placement determination because of a  
 16 circumstance specified in Minnesota Statutes, section 260.191,  
 17 subdivision 3b, paragraph (b). Pleadings to establish a basis  
 18 for permanent placement determination must contain the following  
 19 information:

20 A. the local agency's recommendations about the  
 21 child's permanent placement and the reasons for those  
 22 recommendations;

23 B. the local agency's efforts to reunify the family  
 24 and prevent placement or, in the case of an Indian child, active  
 25 efforts to reunite the child with the child's parent or  
 26 custodian;

27 C. whether there is a substantial probability of the  
 28 child being able to return home in the next six months;

29 D. a recommendation for a permanent plan; and

30 E. a recommendation whether to delay the permanent  
 31 placement determination for six months because of a circumstance  
 32 specified in Minnesota Statutes, section 260.191, subdivision  
 33 3b, paragraph (b); ~~-and.~~

34 ~~F.~~ A permanent placement determination is not required if  
 35 a child is returned home or if a termination of parental rights  
 36 petition is filed before the permanency planning determination,

1 ~~a-permanent-hearing-is-not-required.~~

2 Subp. 3. **Dispositional hearing required; child in**  
3 **long-term foster care.** When a child is placed in long-term  
4 foster care through a dispositional hearing and the order  
5 specifically states the name of the foster parent or parents, no  
6 further dispositional hearings are required unless the placement  
7 is terminated. Administrative reviews pursuant to Minnesota  
8 Statutes, section 257.071, subdivision 2, must continue while  
9 the child remains in the specific placement named in the court  
10 order.

11 Subp. 4. **Dispositional hearing required; child under**  
12 **guardianship.** Except as set forth in subpart 5, dispositional  
13 hearings for a child under the guardianship of the commissioner  
14 or a licensed child-placing agency must occur every two years  
15 following the establishment of the guardianship. The  
16 dispositional hearing shall meet the requirements of Minnesota  
17 Statutes, section 260.242, subdivision 2, paragraph (d).

18 Subp. 5. **Dispositional hearing not required.** A  
19 dispositional hearing is not required for a child under the  
20 guardianship of the commissioner or a licensed child-placing  
21 agency and in court-ordered long-term foster care or in an  
22 adoptive placement during the continuation of that specific  
23 long-term foster care or adoptive placement. The court order  
24 establishing long-term foster care must state the name of the  
25 long-term foster parent or parents.

26 Subp. 6. **Administrative review required.** Administrative  
27 review pursuant to United States Code, title 42, section  
28 675(5)(B), and Minnesota Statutes, section 257.071, subdivision  
29 2, must continue in the case of a child placed in court-ordered  
30 long-term foster care or a child under the guardianship of the  
31 commissioner or licensed child-placing agency. Additionally,  
32 administrative review must continue for a child in an adoptive  
33 placement until the court grants a decree of adoption. Court  
34 review may substitute for an administrative review as long as  
35 the administrative review requirements are met.

## 1 9560.0615 CRITERIA FOR RETURN OF CHILD TO HOME.

## 2 Subpart 1. Return or release of non-Indian child.

3 A. For a child removed from the home of a parent or  
4 guardian and placed in foster care pursuant to court order, the  
5 local agency must seek a court order to end its custody and  
6 return the child to the parent or guardian under the following  
7 circumstances:

8 (1) if the child was removed because of an  
9 emergency as described in part 9560.0221, subpart 2, item A, and  
10 the conditions that resulted in the need for foster care have  
11 been corrected sufficiently to ensure the child's safety with  
12 the parent or guardian; or

13 (2) if the child was removed because of a  
14 nonemergency situation as described in part 9560.0221, subpart  
15 2, item B, and the conditions that ~~caused-the-child's-need-for~~  
16 ~~protection-and-services~~ led to the out-of-home placement have  
17 been mitigated.

18 B. For a child in foster care pursuant to a voluntary  
19 placement agreement, the local agency must return the child to  
20 the parent or guardian within as soon as possible and no later  
21 than 24 hours ~~of-a~~ after receipt of a written and dated request  
22 from the parent or guardian unless, because of child protection  
23 concerns, the local agency secures legal authority to continue  
24 placement outside the home of the parent or guardian.

25 C. A local agency may seek a court order to end its  
26 custody of a child so that the child can be released into the  
27 care of a relative if the child could be safely maintained in  
28 the relative's home without formal legal authority and the  
29 relative is willing to care for the child without formal legal  
30 authority. Before releasing the child into the relative's care,  
31 the local agency must give the relative information orally and  
32 in writing about the rights and responsibilities of a relative  
33 and child in various formal and informal ~~legally-sanctioned~~  
34 relationships.

## 35 Subp. 2. Return of Indian child.

36 A. An Indian child in foster care who was removed

1 because of an emergency must be returned to the parent or  
 2 custodian when the placement is no longer necessary to prevent  
 3 imminent physical damage or harm.

4 B. An Indian child who was removed because of a  
 5 nonemergency circumstance must be returned to the parent or  
 6 guardian custodian when the agency determines that restoring  
 7 custody to the parent or guardian custodian is not likely to  
 8 result in serious emotional or physical harm to the child.

9 C. An Indian child in voluntary placement must be  
 10 returned to the parent or guardian-within custodian as soon as  
 11 possible and no later than 24 hours of-receipt-of after the  
 12 agency receives a written, notarized and dated statement  
 13 complying with the requirements of Minnesota Statutes, section  
 14 257.351, subdivision 4.

15 9560.0620 CHILD'S OR FOSTER CARE PROVIDER'S ABSENCE FROM  
 16 RESIDENTIAL FACILITY.

17 The local agency's permission must be obtained any time the  
 18 foster care provider or child is to be away from the residential  
 19 facility for more than three nights or, if the child leaves the  
 20 state, for any period of time. The local agency may give  
 21 specifically defined blanket permission for departures from the  
 22 state if a provider or child regularly leaves the state for an  
 23 identified routine purpose.

24 9560.0665 NOTICE AND APPEAL PROCEDURES.

25 Subpart 1. Request for foster care payments. If a  
 26 relative who is caring for a child contacts the county and  
 27 requests foster care services or payments, the county must give  
 28 the relative a written notice explaining:

29 A. that if the relative believes the child in the  
 30 relative's care needs child protective services, the relative  
 31 may contact the county to make a child protection report, how  
 32 the contact can be made, and that the county will determine if  
 33 child protective services are required and, if so, what those  
 34 services shall be; and

35 B. that if the relative believes the county has

1 placed the child in the relative's home pursuant to a court  
 2 order or a voluntary placement agreement and the relative is not  
 3 receiving foster care payments on the child's behalf, the  
 4 relative may request payments. The county must enclose a  
 5 "Request for Foster Care Payment Based on Placement" form for  
 6 that purpose. The form must include a statement that the county  
 7 will approve or deny the request within 30 days.

8 Subp. 2. Response to request for foster care payments.

9 Within 30 days of receiving a request for foster care payments  
 10 on the form provided under subpart 1, item B, the county must  
 11 evaluate the request and provide a written notice to the  
 12 relative. The notice must include:

13 A. a statement of the county's decision of approval  
 14 or denial and an explanation for the decision;

15 B. a statement of the legal authority for the  
 16 decision;

17 C. a statement that the relative has a right to a  
 18 fair hearing review by the department;

19 D. the procedure for seeking review;

20 E. a statement ~~that the issue on appeal will be based~~  
 21 ~~on whether the county had or has legal responsibility for the~~  
 22 ~~child's placement in the relative's home and therefore should~~  
 23 ~~have made or should make foster care payments~~ describing the  
 24 scope of review; and

25 F. a name and telephone number of a contact person at  
 26 the county.

27 Subp. 3. Review of claims of erroneous benefits. Before  
 28 or at the time of mailing the first foster care payment to a  
 29 foster care provider, the county must give the foster care  
 30 provider a written notice that includes:

31 A. a statement of and explanation for the starting  
 32 date of the payments;

33 B. the amount of room and board;

34 C. the amount of any difficulty-of-care payment, if  
 35 any, and an explanation of the manner in which the  
 36 difficulty-of-care payment was calculated;

1 D. an explanation of any offset for public assistance  
2 paid;

3 E. a statement of legal authority;

4 F. a statement that the foster care provider has a  
5 right to a fair hearing review by the department;

6 G. a statement describing the scope of ~~the appeal~~  
7 review; and

8 H. a name and telephone number of a contact person at  
9 the county.

10 Subp. 4. Notice of initial assessment of difficulty of  
11 care. As soon as reasonably practicable following the  
12 initiation of foster care placement of a child, the county must  
13 perform the difficulty-of-care (DOC) assessment required under  
14 part 9560.0653. Upon completion of the assessment, the county  
15 must give the child's foster care provider a written notice that  
16 includes:

17 A. a statement of the DOC rating assigned by the  
18 county and the dollar value of the rating assigned;

19 B. the method of assessment, ~~and~~; this requirement  
20 may be satisfied by the provision giving the foster care  
21 provider a copy of the DOC assessment instrument completed for  
22 the child by the county;

23 C. a statement of the legal authority for the rating;

24 D. a statement of the circumstances under which the  
25 agency must reassess a child as required by part 9560.0650,  
26 subpart 6;

27 E. the procedure for seeking a reassessment; and

28 F. a statement that, following reassessment, a foster  
29 care provider has a right to a fair hearing review of the  
30 reassessment by the department.

31 Subp. 5. Review of reassessment of difficulty-of-care  
32 (DOC) rating. Upon reassessment of a child's difficulty-of-care  
33 (DOC) rating, the county must give written notice to the foster  
34 care provider. The notice must include:

35 A. the prior DOC rating;

36 B. the new DOC rating;

1 C. the effective date of the rating which; this date  
2 may precede the request for reassessment when supported by  
3 evidence;

4 D. the reason for the new rating, a provision copy of  
5 the completed DOC assessment instrument will be sufficient;

6 E. the reason for the effective date;

7 F. a statement of the legal authority for the  
8 assessment;

9 G. a statement that the foster care provider has the  
10 right to a fair hearing review by the department;

11 H. the procedure for seeking review;

12 I. a statement describing the scope of review; and

13 J. a statement that ~~if-the~~ a foster care provider who  
14 requests review of the proposed change in the DOC rating within  
15 ten days of the date of the notice, ~~the-foster-care-provider~~ may  
16 also request that foster care payments continue at the  
17 provider's current level pending fair hearing review, but if the  
18 county's proposed action is sustained upon review, the agency  
19 may recover any overpayment paid.

20 Subp. 6. Notice and review of reduction of days covered.

21 When the county ~~issues-a-check-for~~ reduces foster care payments  
22 or provides foster care payments for fewer days than the foster  
23 care provider requested, the county must provide a written  
24 notice to the provider. The notice must include:

25 A. a statement of the reduction in payment or of the  
26 number of days for which a check is being issued;

27 B. an explanation of the reason for the reduction or  
28 the number of days;

29 C. a statement of the legal authority for the  
30 decision;

31 D. a statement that the foster care provider has a  
32 right to a fair hearing review by the department;

33 E. the procedure for seeking review;

34 F. a statement describing the scope of ~~the-appeal~~  
35 review; and

36 G. in the case of reduction in payment, a statement

1 that a foster care provider who requests review of the proposed  
 2 reduction in payment within ten days of the notice may request  
 3 that foster care payments continue at the current level pending  
 4 fair hearing review, but if the county's proposed action is  
 5 sustained upon review, the agency may recover any overpayments;  
 6 and

7 H. a name and telephone number of a contact person at  
 8 the county.

9 Subp. 7. Notice of termination. When the county  
 10 terminates foster care payments to a foster care provider, the  
 11 county must send written notice to the foster care provider.  
 12 The notice must be provided with the final voucher the county  
 13 sends to the foster care provider if possible, but in all cases,  
 14 at least ten days before the first month in which no payment  
 15 will be made. The written notice must include:

16 A. the date after which foster care payments will not  
 17 be made;

18 B. the reason why the county will terminate payments,  
 19 and the event on which the county bases its determination that  
 20 the placement ended;

21 C. a statement of the legal authority for the  
 22 decision;

23 D. a statement that the foster care provider has a  
 24 right to a fair hearing review by the department;

25 E. the procedures for seeking review;

26 F. a statement describing the scope of the ~~appeal~~  
 27 review;

28 G. a statement that:

29 (1) a foster care provider who ~~appeals~~ requests a  
 30 hearing within ten days of the date of the notice may request  
 31 that the foster care payments on the child's behalf continue  
 32 pending fair hearing review, ~~but~~ if the request indicates in  
 33 writing that the child remains in the foster care provider's  
 34 care;

35 (2) payments will continue only so long as the  
 36 child remains in the foster care provider's care; and



1           (3) if the county's action to terminate the  
2 benefits is sustained upon review, the agency may recover from  
3 the foster care provider any amounts paid pending review; and

4           H. a name and telephone number of a contact person at  
5 the county.

6           Subp. 8. **Requesting a hearing.** After receiving notice  
7 under subparts 2 to 7, foster care providers or relative  
8 custodians who want a fair hearing review of a decision by the  
9 county must submit a written request for a hearing to the  
10 department within 30 days of receiving the notice, or within 90  
11 days of receiving the notice if good cause can be shown why the  
12 request was not made within 30 days. Foster care providers may  
13 also seek fair hearing review of a request for foster care  
14 payments or reassessment of DOC if they do not receive written  
15 notice of the county's decision on their request within a  
16 reasonable time.

17           Subp. 9. **Scope of review.** The scope of hearings involving  
18 claims to foster care payments shall be limited to the issue of  
19 whether the county is legally responsible for a child's  
20 placement under court order or voluntary placement agreement,  
21 and, if so, the correct amount of foster care payment to be made  
22 on the child's behalf. The hearing shall not include review of  
23 the propriety of the county's child protection determination or  
24 child placement decision.

25 9560.0670 RECRUITMENT OF FOSTER CARE PROVIDERS.

26           Subpart 1. **Recruitment; general.** The local agency must  
27 recruit and license family foster homes from as wide a variety  
28 of backgrounds as possible.

29           Subp. 1a. **Recruitment plan.** The local agency must develop  
30 and implement a plan for diligent recruitment of foster care  
31 providers who reflect the ethnic and racial diversity of  
32 children in the state for whom foster homes are needed. A local  
33 agency may develop the plan directly or through a contract with  
34 another county, tribe, or authorized child-placing agency.

35           Subp. 1b. **Outreach for recruitment.** The local agency must

1 work diligently with community and religious organizations,  
 2 Indian tribes, and other individuals and groups to ~~increase-the~~  
 3 ~~number-of-families-of-color-available-as-foster-care~~  
 4 providers recruit foster care providers who reflect the ethnic  
 5 and racial diversity of children in Minnesota for whom foster  
 6 care providers are needed. The agency may contact the  
 7 Ombudsperson for Families and the state ethnic councils for  
 8 assistance.

9 Subp. 1c. Documentation of compliance with plan. The  
 10 local agency must keep a record of its actions to comply with  
 11 the requirements of this part.

12 Subp. 2. Assistance to foster care providers. The local  
 13 agency must train and assist foster care providers as necessary  
 14 to assure the well-being of the child in foster care.

15 Subp. 3. Foster care providers as advisers. The local  
 16 agency must consult with foster care providers in the  
 17 development of policies and procedures pertaining to foster care.

18 Subp. 4. Relicensure. Before recommending relicensure,  
 19 the local agency must evaluate with the foster care providers  
 20 the services furnished by the foster care provider and the local  
 21 agency. The local agency must give a copy of the evaluation to  
 22 the foster care provider.

23 Subp. 5. Racial bias. The local agency must work to  
 24 eliminate racial, ethnic, and national origin discrimination and  
 25 bias in adoption and foster care recruitment, selection, and  
 26 placement procedures. The local agency must assess the foster  
 27 care applicant's or foster care provider's capacity for  
 28 accepting children of diverse backgrounds. If the agency  
 29 concludes that the applicant or provider ~~lacks-the-capacity-for~~  
 30 ~~accepting-children-of-diverse-backgrounds~~ has negative attitudes  
 31 toward people of a particular race, religion, color, or national  
 32 origin, the agency must refuse licensure or relicensure and not  
 33 place additional children with that provider.

34

35 REVISORS INSTRUCTION. The term "local agency" shall be  
 36 substituted for the term "local social services agency"

06/10/96

[REVISOR ] SGS/KS AR2667

1 throughout parts 9560.0500 to 9560.0670.

2 REPEALER. Minnesota Rules, parts 9560.0520; 9560.0530;

3 9560.0540; 9560.0550; 9560.0560, subpart 1; 9560.0570;

4 9560.0610; and 9560.0630, are repealed.