Exceptions & Waivers

The Oklahoma Department of Human Services allows certain exceptions or waivers for resource applicant requirements. Upon the applicant's or CW specialist's request, DHS may, at its discretion, grant an exception of specific rules or standards that do not compromise a child's safety or well-being and does not violate federal or state statutes. Exceptions may be granted, provided adequate standards affording protection for the health, safety, and welfare of the child exist and are met in lieu of the exact requirements of the rule or standard in question. Requests for exceptions can be made for requirements listed in OAC 340:75-7 Part 2, Development of Resource Families. Part 2 begins with OAC 75-7-10 and ends 75-7-24. Exceptions to resource requirements should be rare and multiple attempts to comply with policy should be made when possible, prior to the approval of an exception. Examples of exceptions to resource requirements include sleeping arrangements, references, animals and pet safety, and documents required as part of the application packet.

Form 04AF042E, Request for Exception to Resource Requirements, was developed to document and track the disposition of exception requests. This form can be utilized prior to initial kinship placement approval, resource approval or annually for approved resource homes. The process for completion of Form 04AF042E, disposition of the request and documentation of the decision is below.

1. The resource specialist completes Form 04AF042E and cites the policy for which an exception is being requested. The resource specialist includes the summary of justification, including all specific attempts made to comply with policy and information learned that has assisted the specialist in making the determination an exception may be appropriate. The summary of justification may include information learned from a variety of sources, such as conversations with the family, case staffing, information provided by references, and information in records or documentation. This section is a crucial element of the exception request and documents critical thinking of the decision a policy requirement cannot be met. The resource specialist also includes the specific time frame for the exception request. When a temporary exception request is approved, efforts will continue to meet the policy requirement the exception was requested for. This section should also include time frames for specific attempts to be made in the future. When a permanent exception request is approved, all efforts to meet the policy requirement have been exhausted and circumstances will not change in the future that would allow this information to be obtained and compliance with policy.
2. The resource specialist signs Form 04AF042E and submits it to the resource supervisor for review.
3. When the resource supervisor agrees with the exception request, he or she signs Form 04AF042E and submits it to the field manager or field administrator for approval or denial.
4. The field manager or field administrator documents approval or denial of the exception request on Form 04AF042E and can enter additional comments regarding the decision. A Foster Care & Adoptions deputy director is consulted as needed. If further attempts need to be made to comply with policy, it is recommended to include any additional instruction from the approving individual that is not previously documented in the body of the exception.
5. The resource specialist scans Form 04AF042E into the KIDS Resource File Cabinet and documents the request and response in KIDS Resource Contacts.

All resource staff were trained in spring 2017 regarding requesting exceptions to resource requirements and completion of Form 04AF042E. The form was newly released in spring 2017 and was included as part of Assessing Concerns in Resource Homes training for all resource staff. The practice of documenting exceptions prior to this training was completion of addendums or initiation of a Written Plan of Compliance to track a temporary exception. Information regarding exceptions to resource requirements assessment has been incorporated into CW 1007, Foster Care & Adoption New Specialist Training. All new resource specialists are required to attend this training after completion of CORE or upon transferring from another program.

Policy sites addressing exceptions are listed below:

* **75-7-10.1. Resource Parent Framework, ITS #3** Exceptions to requirements. Upon the applicant's or resource specialist's request, DHS may, at its discretion, grant an exception of specific rules or standards that do not compromise a child's safety and does not violate federal or state statutes. Exceptions may be granted, provided adequate standards affording protection for the health, safety, and welfare of the child exist and are met in lieu of the exact requirements of the rule or standard in question.
  + (1) The resource specialist submits Form 04AF042E, Request for Exception to Resource Requirements, to the resource supervisor for an exception to the requirements listed in OAC 340:75-7 Part 2.
  + (2) When the resource supervisor agrees with the exception request, he or she sends Form 04AF042E to the field manager for review.
  + (3) The field manager approves or denies the exception request and signs Form 04AF042E. A Foster Care and Adoptions deputy director is consulted when needed. Form 04AF042E is scanned into KIDS Resource File Cabinet.
  + (4) The resource specialist documents the request and response in KIDS Resource Contacts.

* **75-7-14. Training Requirements, (a) Pre-Service training.** 
  + **(1)** Each applicant completes required Child Welfare Services (CWS)-approved training. Additionally, any adult household member, 18 years of age and older, who provides daily care for a child, completes the required training. An exception may be given when an individual is determined to possess required values and guiding principles as a result of prior foster care training and experience.
  + **(6)** An applicant may request an exception to classroom training based on the applicant's work schedule or disability and, when the exception is granted, the applicant completes a curriculum approved by the Resource Unit. \*\*Online training is now offered as an option for pre-service training.
* **75-7-15. Background information search and assessment of results (d)(1)** Exception to fingerprinting. Per 10A O.S. § 1-7-111, the DHS Director or designee may authorize an exception to the fingerprinting requirement, and authorize use of an alternative procedure for obtaining a national criminal history records search for any applicant or adult residing in the home who has a severe condition that precludes such person being fingerprinted. In limited, case-specific circumstances, DHS may not be able to obtain:

1. an individual's fingerprints as a result of the individual's disability; or
2. legible fingerprints due to low quality fingerprints, as a result of age, occupation, or other conditions, thereby making it impossible for the National Crime Information Center (NCIC) to provide results

Additional guidance is located in ITS #1(D) and #5.

* **340:75-7-18. Resource family assessment (RFA) (d)** Number of children in the home. DHS determines the number and ages of children placed in each resource home.

1. Maximum number of children allowed to reside in the resource home. The total number of children in DHS custody placed in a resource home does not exceed five. The total number of children in the resource home does not exceed six, which includes biological, adoptive, foster, and other children not in DHS custody. Per Oklahoma Administrative Code (OAC) 340:75-7-41, approval to exceed these limits may be given, for circumstances, such as, but not limited to:

(A) placing:

(i) siblings together; or

(ii) a child in the home where he or she was previously placed;

(B) proximity:

(i) to the child's family for visitation and for bridging the parent-child and parent-resource parent relationship; or

(ii) of the resource home to specialized services needed by the child in DHS custody;

(C) enabling an older child to remain in his or her educational placement; or

(D) approving a caregiver who has unique abilities to address a child's specific needs.

(2) Maximum number of children younger than 2 years of age allowed in a resource home. No more than two children younger than 2 years of age including the resource parent's own children may reside or be placed in the resource home.

(3) Child in DHS custody placed in a tribal home. The number of children in DHS and tribal custody allowed to reside in a tribal resource home is determined by the applicable tribe. When a child in DHS custody is placed in a tribal home and placement exceeds six children, overfill procedures are followed. An Indian child in DHS custody is placed in compliance with the placement preferences of the Indian Child Welfare Act, per OAC 340:75-19.

\*\*Additional guidance regarding this information is in ITS #7(b).

* **340:75-7-18. Resource family assessment (RFA) (i)** Exceptions to assessment guidelines. Upon the applicant's or CW specialist's request, DHS may, at its discretion, grant an exception of specific rules or standards that do not compromise a child's safety or well-being and does not violate federal or state statutes. Exceptions may be granted, provided adequate standards affording protection for the health, safety, and welfare of the child exist and are met in lieu of the exact requirements of the rule or standard in question. \*\*Additional guidance regarding this information is in ITS #11.

* **340:75-7-24. Kinship placement for the child in Oklahoma Department of Human Services (DHS) custody** 
  + **(b)(4)** Related by emotional tie or bond. An emotional tie or bond exists when a child or the child's parent acknowledges and accepts a person as part of the extended family or in the family's close network of friends and relationships. The family or child relationship role must exist prior to the necessity for the child's initial out-of-home placement. Individuals with whom a child in DHS custody establishes a relationship after the child's out-of-home placement may be considered as a non-relative kinship placement after an assessment of the child's case and an exception to kinship placement is granted. \*\*Additional guidance is in ITS #2.
  + **(i)** Foster care maintenance payments begin when requirements satisfied. Per 10A O.S. § 1-9-106, the kinship resource parent is not entitled to any payments for providing foster care until the resource parent receives final approval from DHS. Foster care maintenance payments for kinship resource homes begin at the time requirements are met, per OAC 340:75-7-18 and are not retroactive. On a case-by-case basis, the kinship resource parent may be approved for maintenance payments based on an exception to a non-safety requirement. \*\*Additional guidance is in ITS #6 (2)(C)(E) and (F), (i) and (ii).

Initial Kinship Placement

The Oklahoma Department of Human Services allows kinship placement of a custody child with a kinship applicant prior to completion of all resource requirements being met.

**340:75-7-24. Kinship placement for the child in Oklahoma Department of Human Services (DHS) custody**

(d) **Initial kinship placement.** Per 10A O.S. § 1-9-106, a child may be placed in the kinship resource home prior to completion of the resource family assessment, a national criminal history records search, and pre-service training provided:

(1) Form 04AD003E, Request for Background Check, is completed, signed, and results are received for the applicant and each adult household member, per Oklahoma Administrative Code (OAC) 340:75-7-15;

(2) a DHS records search, including Child Welfare Services records, is completed and documented for the applicant and each adult household member on Form 04AF007E, Records Check Documentation. When an applicant or adult household member has not lived continuously in Oklahoma for the past five years, the resource specialist gathers all child welfare (CW) histories from other states where the applicant or adult household member lived within the past five years. The applicant or adult household member submits fingerprints for a national criminal history records search to expedite the initial placement approval process.

(3) Form 04FC001E, Initial Kinship Placement Agreement, is completed and signed;

(4) Form 04AF001E, Resource Family Application, is completed and signed;

(5) Form 04AF004E, House Assessment, is completed; and

(6) three personal references, only one of whom is a family member, are interviewed.

Additional guidance regarding initial kinship placement is in ITS #4. A resource specialist staffs with his or her supervisor prior to approving initial kinship placement of the child in the kinship home.

As mentioned previously, Form 04AF042E, Request for Exception to Resource Requirements, may be utilized prior to initial kinship placement to document and track exceptions. The applicant's or CW specialist's request, DHS may, at its discretion, grant an exception of specific rules or standards that do not compromise a child's safety or well-being and does not violate federal or state statutes. Exceptions may be granted, provided adequate standards affording protection for the health, safety, and welfare of the child exist and are met in lieu of the exact requirements of the rule or standard in question.

The initial kinship placement assessment and process is included in CW 1007, Foster Care & Adoption New Specialist Training. All new resource specialists are required to attend this training after completion of CORE or upon transferring from another program. The *Initial Kinship Safety Evaluation and Approval* tool was developed for resource staff conducting initial kinship assessments. This tool assists in ensuring all requirements are met and safety is thoroughly assessed prior to placement of a child in the kinship home.