

67:14:14:05. Amount of subsidy. The amount of the maintenance, medical, or special subsidy ~~shall~~ must be flexible according to the needs and circumstances of both the adoptive family and the child. The family's income, resources, and obligations ~~shall~~ must be considered in determining the amount of the subsidy. No subsidy ~~shall~~ may be authorized for, or paid to, an adoptive family eligible for benefits under the family's medical insurance; supplemental security income; Title XIX funds for the child of an ~~ADC~~ a TANF family; vocational rehabilitation funds; public health program funds such as ~~crippled children's services~~ children and youth with special health care needs (CSHCN), old-age survivors insurance, or veterans administration grants from either the biological or adoptive parents; or funds for the child from any other source. A maintenance subsidy may not exceed the basic foster care rate. A medical subsidy ~~shall~~ must follow the medical services program of the department.

A child may qualify for a subsidy at a rate higher than the current basic foster care rate if:

- (1) The child has a medical condition that is determined to be ~~life-long~~ lifelong and requiring specialized care;
- (2) The child has a disability requiring ongoing specialized treatment or mental health treatment and a higher level of supervision in the home;
- (3) The child has experienced a prior dissolved adoption; or
- (4) The child resides in an institution, and financial incentive is the only means ~~in~~ of securing an adoptive family.

These determinations are made by the department on a case by case basis. The department shall maintain written documentation on the child's circumstances ~~which~~ that support the determination.

Source: SL 1975, ch 16, § 1; 3 SDR 85, effective June 21, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 44 SDR 94, effective December 4, 2017.

General Authority: SDCL 28-1-64.

Law Implemented: SDCL 28-1-64.

Cross-Reference: Medical services, art 67:16.

67:14:30:01. Definition of child protective services. "Child protective services," are services provided to ~~children~~ a child for whom it is ~~alleged or determined to be unsafe because of concerns about~~ there is alleged abuse or neglect. These services may include assessment of child abuse and neglect reports, evaluating whether ~~children~~ are a child is exposed to threats to safety, assessment of a parent's or caretaker's ability to protect the ~~children~~ child, establishment of a present danger plan, provision of emergency foster care, establishment of a safety plan, and interventions and services to change negative behaviors and conditions that make ~~children~~ a child unsafe.

Source: 2 SDR 49, effective January 7, 1976; 3 SDR 38, effective November 23, 1976; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 37 SDR 222, effective June 7, 2011; 44 SDR 94, effective December 4, 2017.

General Authority: SDCL 26-4-7(1)(6)(7).

Law Implemented: SDCL 26-4-7(1)(6)(7).

Cross Reference: Abuse of or cruelty to minor as felony--Reasonable force as defense--Limitation of action, SDCL 26-10-1.

67:14:31:21. Definitions. Terms As used in this chapter ~~mean~~:

(1) "~~ADC~~ AFDC," means aid to families with dependent children pursuant to article 67:12;

(2) "Alternative care," means the provision of basic family foster care, specialized foster care, family treatment foster care, group care center services, residential treatment center services, intensive residential treatment services, and emergency foster care for children as provided under this chapter, or other types of ~~care~~ placement as defined by SDCL chapter 26-13;

(3) "Alternative care placement services," means the identification of ~~the a~~ need for an alternative living arrangement, including the matching of a child with an appropriate resource; the development of a case plan, including routine supervision of the child; the periodic evaluation of need; the determination of need for changes and planning in relation to the child's legal custody status; and the movement of a child to the child's own home or other permanent living arrangement, including adoption as defined in chapter 67:14:32;

(4) "Alternative services," means services as defined in § 67:42:07:01;

(5) "Basic family foster care," means the 24-hour care, supervision, and substitute parenting of a child, outside of the child's own home. Basic family foster care includes teaching life skills, such as eating and bathing, and providing for social, religious, economic, and educational experiences in keeping with the child's age and development. All other types of family foster care defined in this chapter include the provision of basic family foster care;

(6) "Emergency foster care;" means a service provided to a child for whom immediate removal from ~~their~~ the current living situation is required to ensure the child's protection and safety; ~~a group care center that provides short term, full time care for a child placed under emergency conditions and provides short term assessment services. Short term care is no more than 30 days, but may be extended an additional 30 days if a placement plan has been made but cannot be implemented or needed assessment services cannot be completed within the initial 30 day period;~~

(7) "Family treatment foster care;" means a service that provides mental health support and case management to a foster home with a child in the care of the foster home who has significant emotional trauma or behavioral needs that require a higher level of foster care for mental health support and case management;

(8) "Group care center;" means a facility as defined in § 67:42:07:01;

(9) "Intensive residential treatment center;" means a facility as defined in § 67:42:15:01;

(10) "Maintenance cost;" means costs experienced in meeting essential needs, including food, clothing, shelter, and routine supervision;

(11) "Residential treatment center;" means a facility as defined in § 67:42:08:01;

(12) "School of origin;" means the school in which a child is enrolled at the time of placement in foster care or the school in which a child is enrolled at the time of a placement change;

(13) "Service costs;" means costs incurred in the provision of treatment to meet a child's physical or mental health needs;

(14) "Shelter care;" means a facility as defined in § ~~67:42:07:01-01~~ 67:42:07:01;

(15) "Specialized foster care;" means a 24-hour service directed toward the ~~amelioration~~ improvement of a complex set of conditions or impairments, as in; a physical or mental disability or behavioral need based on a case plan; and

(16) "State review team;" means the team as defined in §§ 67:16:47:04.01 ~~and~~ 67:16:47:04.02.

Source: 2 SDR 49, effective January 7, 1976; transferred from § 67:14:31:01, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 96, effective December 9, 1985; 37 SDR 222, effective June 7, 2011; 44 SDR 94, effective December 4, 2017.

General Authority: SDCL 26-4-7.

Law Implemented: SDCL 26-4-7.

67:14:31:51. School transportation expenses paid. Transportation expenses ~~shall~~ may be paid by the department when foster parents are required to transport children to school and this expense is not reimbursed by the ~~local~~ school district or the Department of Education. The cost of transportation ~~shall~~ must be based on the number of miles traveled for the average school month and ~~shall~~ must be added to the foster parent's monthly request for payment. Mileage is reimbursed at the rate established in § 5:01:02:01 or 5:01:02:01.01, as applicable, for the use of a privately owned automobile. The department may not pay transportation expenses when a foster parent also transports the parent's own children to the same school.

Source: SL 1975, ch 16, § 1; transferred from § 67:14:13:48, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 96, effective December 9, 1985; 37 SDR 222, effective June 7, 2011; 44 SDR 94, effective December 4, 2017.

General Authority: SDCL 26-4-7(2).

Law Implemented: SDCL 26-4-7(2).

67:14:31:54. Payment of out-of-state foster care. If a foster parent moves out-of-state with a child in foster care, the department shall reimburse the foster parent at the foster care rate established by that state or South Dakota's foster care rate, once the foster parent is licensed in the new state. The rate must be negotiated between South Dakota and the new state.

If the department places a South Dakota child into an out-of-state foster home, the department ~~shall~~ may reimburse the out-of-state foster parent at the foster care rate established by that state.

Source: 1 SDR 30, effective October 13, 1974; transferred from § 67:14:13:43.01, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 96, effective December 9, 1985; 37 SDR 222, effective June 7, 2011; 44 SDR 94, effective December 4, 2017.

General Authority: SDCL 26-4-7(2).

Law Implemented: SDCL 26-4-7(2), 26-13-1(Article V).

Cross-References: Authorization required for relocation, § 67:14:31:55; Authorization of out-of-state placements, § 67:14:31:56.

67:14:32:05.03. Screening for substantiated reports or convictions of abuse and neglect. The department shall screen an applicant ~~and~~ family members, and other household members who are at least ~~ten~~ 18 years old to determine if the individual has been involved in any substantiated incidents of child abuse or neglect. The individual may not have a substantiated report of child abuse or neglect. Substantiated reports of child abuse or neglect include reports placed into the department's central registry under § 67:14:39:03, reports placed on the central registry of another state within the last ten years, and reports that were investigated and substantiated by a tribal program.

If the screening locates an individual's name on the department's central registry and the individual has not already been given due process on the substantiation, the department shall notify the individual in writing that ~~he or she~~ the individual may request a hearing to refute the accuracy of the information found. The hearing ~~shall~~ must follow the provisions of SDCL 26-8A-11 and chapter 67:14:39.

If the screening locates an individual's name on the central registry of another state, it is the individual's responsibility to contact the other state to access the process for removal of ~~his or her~~ the individual's name from that state's central registry. If the other state has such a process and removes the individual's name from its central registry, the individual shall request the other state to submit documentation to the department verifying the removal of the individual's name from its central registry.

If the screening locates a report that was substantiated by a tribal program, it is the individual's responsibility to contact the tribal program to access the process for removal of ~~his or her~~ the individual's name from the record of the report. If the tribal program has such a process and removes the individual's name from the record of the report, the

individual shall request the tribal program to submit documentation to the department verifying the removal of the individual's name from the record.

Source: 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 17 SDR 157, effective April 23, 1991; 22 SDR 102, effective February 7, 1996; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-4-9.1(1)(3)(4).

Law Implemented: SDCL 26-4-9.1(1)(3)(4).

67:14:32:08. General qualifications for adoptive applicants. ~~The general qualifications for~~ To qualify as an adoptive applicant ~~are as follows:~~

(1) The applicant ~~is~~ shall be at least 21 years of age and resides in South Dakota. Verification of age is required;

(2) No member of the applicant's household ~~ten~~ 18 years of age or older, other than a child placed in the home for foster care, ~~has~~ may have on record a substantiated report of child abuse or neglect;

(3) No member of the applicant's household ~~has had~~ may have a conviction for any of the crimes specified in § 67:14:32:05.05;

(4) The applicant ~~is~~ shall be capable of providing good care for children;

(5) The applicant ~~has~~ shall have income to meet the needs of the applicant's existing family and to support, care for, and educate an adopted child;

(6) The applicant's children, if any, ~~are~~ shall be willing to accept an adopted child as a member of the family;

(7) The applicant's family composition, needs, and relationships may not adversely affect an adopted child; and

(8) The applicant ~~has~~ shall have the ability to parent a child, which includes a basic understanding of the child's physical and mental or emotional development and the ability to fulfill the child's needs. An applicant ~~must~~ shall have the ability to offer continuing care and guidance to a child throughout the stages of the child's development in a manner consistent with the social and cultural heritage norms of the child. The applicant ~~must~~ shall be able to continue meeting the needs of the applicant's own

children, if any. The applicant ~~must~~ shall display the capacity to provide good care for children.

The department may require a psychological evaluation and the submission of medical records if questions arise during the application process regarding the applicant's emotional stability or the emotional stability of another household member.

Source: 2 SDR 62, effective April 5, 1976; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 9 SDR 72, effective December 14, 1982; 17 SDR 157, effective April 23, 1991; 21 SDR 206, effective June 4, 1995; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-4-9.1(1)(3)(4).

Law Implemented: SDCL 26-4-9.1(1)(3)(4).

Cross-References:

Required criminal records checks, 42 U.S.C. § 671(a)(20).

Home study report ~~by licensed child placement agency, Department of Social Services, or certified independent social worker required~~ — ~~Exception~~ Required — Criminal record check and central registry screening to be included -- Violation as misdemeanor, SDCL 25-6-9.1.

Confidentiality of abuse or neglect information -- Violation as misdemeanor -- Release to certain parties, SDCL 26-8A-13.

Information from another state's central registry or national crime database to be used only for background check for approval of foster or adoptive placement, SDCL 26-6-14.13.

67:14:32:09. Physical health standards required of applicant and applicant's family. A physical examination ~~is required~~ must be completed for each applicant. A physical examination completed within the 12 months preceding the application is acceptable. The applicant may obtain the physical examination forms from the department. The forms must be completed by the attending physician, physician's assistant, or certified nurse practitioner and returned to the department. Each household member must provide a health history, including any history of drug or alcohol abuse or treatment, and must disclose any current mental health or drug or alcohol abuse issues.

The applicant shall also present evidence to the department that each household member under the age of 18 meets the immunization requirements of the Department of Health, unless the immunization is contrary to the individual's health as documented by a licensed health care professional or the application provides a signed written statement that the applicant adheres to a religious doctrine whose teachings are opposed to such immunization. The minimum immunization requirements for a child age four months through six years include: diphtheria, tetanus, and acellular pertussis (DTaP); poliovirus; measles, mumps, and rubella (MMR); and varicella. The minimum immunization requirements for a child age 7 through 18 include: tetanus, diphtheria, and acellular pertussis (Tdap) and meningococcal ACYW (MCV4). Each household member who will have contact with an infant or child with health issues that make them vulnerable to a serious or life-threatening condition if they are exposed to the influenza virus must receive an annual Influenza vaccine and have an up-to-date pertussis (whooping cough) vaccine.

Additional recommended immunizations include: Rotavirus; Haemophilus Influenzae Type b (Hib); Hepatitis A (Hep A); Hepatitis B (Hep B); Pneumococcal, and Influenza.

If questions arise during the adoptive study concerning the applicant's medical condition or the medical condition of another household member, additional medical evaluations may be required.

Source: 2 SDR 62, effective April 5, 1976; 7 SDR 23, effective September 18, 1980; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 17 SDR 157, effective April 23, 1991; 35 SDR 187, effective February 11, 2009; 44 SDR 94, effective December 4, 2017.

General Authority: SDCL 26-4-9.1(1)(2)(4).

Law Implemented: SDCL 26-4-9.1(1)(2)(4).

67:42:01:05. Initial evaluation and approval -- Renewal of license. The department's initial evaluation of the applicant ~~based on references~~ includes three reference checks, personal interviews, a screening for records of abuse or neglect, a criminal record check, and on-site visits. ~~The applicant must provide three references.~~

Based on the evaluation, the department shall determine whether to issue a license. A family foster home must complete an annual renewal study. Renewal of a license is based on the department's annual evaluation of the facility and care provided.

Except as otherwise provided, family foster parent applicants must complete an initial home study that includes at least one scheduled in-home interview for each household member. The department may elect to observe, rather than interview, a household member, based on the member's age or development. The initial home study must include three references, with at least one reference being a family member and at least one reference being a non-relative.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 27 SDR 63, effective December 31, 2000; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16(1)(2)(6)(10)(11).

Law Implemented: SDCL 26-6-11, 26-6-16(1)(2)(6)(10)(11), 26-6-23.2.

Cross-Reference: Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

67:42:01:05.02. Screening for substantiated reports of abuse and

neglect. The department shall screen a provider applicant, family members and other household members who are at least ~~ten~~ 18 years old, an employee of the facility, an employee applicant, a volunteer, and a volunteer applicant to determine if the individual has been involved in any substantiated incidents of child abuse or neglect. The individual may not have a substantiated report of child abuse or neglect. Substantiated reports of child abuse or neglect include reports placed into the department's central registry under § 67:14:39:03, reports placed on the central registry of another state in the last ten years, and reports that were investigated and substantiated by a tribal program.

If the screening locates an individual's name on the department's central registry and the individual has not already been given due process on the substantiation, the department shall notify the individual in writing that the individual may request a hearing to refute the accuracy of the information found. The hearing ~~shall~~ must follow the provisions of SDCL 26-8A-11 and chapter 67:14:39.

If the screening locates an individual's name on the central registry of another state, it is the individual's responsibility to contact the other state to access the process for removal of ~~his or her~~ the individual's name from that state's central registry. If the other state has such a process and removes the individual's name from its central registry, the individual shall request the other state to submit documentation to the department verifying the removal of the individual's name from its central registry.

If the screening locates a report that was substantiated by a tribal program, it is the individual's responsibility to contact the tribal program to access the process for removal of ~~his or her~~ the individual's name from the record of the report. If the tribal program has

such a process and removes the individual's name from the record of the report, the individual shall request the tribal program to submit documentation to the department verifying the removal of the individual's name from the record.

Source: 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 22 SDR 102, effective February 7, 1996; 35 SDR 187, effective February 11, 2009.

General Authority: SDCL 26-6-16(1)(6)(10).

Law Implemented: SDCL 26-6-11, 26-6-16(1)(6)(10), 26-6-23.2.

Cross-References: Revocation or refusal to issue or renew license or registration for child abuse or violence, SDCL 26-6-23.1; Central registry background checks on employees, SDCL 26-6-23.2; Substantiated reports, § 67:14:39:04.

67:42:01:07. Physical health standards required of applicant and applicant's family. An applicant for family foster care must have a physical examination. A physical examination completed within the 12 months preceding the date of the application is acceptable. The applicant may obtain the physical examination forms from the department. The forms must be completed by the attending physician, physician's assistant, or certified nurse practitioner and returned to the department. Each household member must provide a health history, including any history of drug or alcohol abuse or treatment, and must disclose any current mental health or drug or alcohol abuse issues.

The applicant shall also present evidence to the department that each household member under the age of 18 meets the Department of Health's requirements for immunizations, unless the immunization is contrary to the individual's health as documented by a licensed health care professional or the application provides a signed written statement that the applicant adheres to a religious doctrine whose teachings are opposed to such immunization. The minimum immunization requirements for a child age 4 months through 6 years include: diphtheria, tetanus, and acellular pertussis (DTaP); poliovirus; measles, mumps, and rubella (MMR); and varicella. The minimum immunization requirements for a child age 7 through 18 include: tetanus, diphtheria, and acellular pertussis (Tdap); and meningococcal ACYW (MCV4). Each household member who will have contact with an infant or child with health issues that make them vulnerable to a serious or life-threatening condition if they are exposed to the influenza virus must receive an annual Influenza vaccine and have an up-to-date pertussis (whooping cough) vaccine.

Additional recommended immunizations include: Rotavirus; Haemophilus Influenzae Type b (Hib); Hepatitis A (Hep A); Hepatitis B (Hep B); and Pneumococcal.

The department may request additional medical statements if a situation, such as a change in the health of the applicant or another household member, indicates that an additional medical statement is desirable.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 10 SDR 48, effective November 21, 1983; 12 SDR 4, effective July 25, 1985; 12 SDR 127, effective February 9, 1986; 15 SDR 94, effective January 1, 1989; 17 SDR 157, effective April 23, 1991; 21 SDR 206, effective June 4, 1995; 31 SDR 40, effective September 29, 2004; 35 SDR 187, effective February 11, 2009; 39 SDR 220, effective June 27, 2013; 44 SDR 94, effective December 4, 2017.

General Authority: SDCL 26-6-16(1)(6)(8).

Law Implemented: SDCL 26-6-11, 26-6-16(1)(6)(8).

CHAPTER 67:42:05
FAMILY FOSTER HOMES

Section

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67:42:05:01. Definitions. Terms As used in this chapter ~~mean~~:

(1) "Family foster home;" means a family home that provides regular full-time care, maintenance, supervision, and protection of a child, as a substitute for regular parental care, without a transfer of legal custody and meets the requirements of 67:42:05:24;

(2) "Child placement agency;" means the department or an agency or institution as defined in SDCL 26-6-14(4) and subject to the regulatory requirements of chapter 67:42:09; and

(3) "Single family home;" ~~personal living space for one family unit which may include either~~ means a stand-alone dwelling or ~~one~~ a unit in a multiple-unit dwelling, which provides personal living space for one family.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 17 SDR 157, effective April 23, 1991; 20 SDR 223, effective July 7, 1994; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16(2)(6).

Law Implemented: SDCL 26-6-16(2)(6).

67:42:05:03. Training and development. Foster parent applicants must participate in at least 30 hours of orientation training before receiving an initial license.

The training must include ~~instruction in at least the following areas;~~

- (1) The impact of separation and trauma on child development;
- (2) How attachments are formed;
- (3) The importance of the birth family;
- (4) Techniques of managing behavior;
- (5) Permanency planning for children; ~~and~~
- (6) Child development; and
- (7) Cardiopulmonary resuscitation, first aid, and medication administration.

Licensed foster parents must participate in at least 6 hours of approved training annually, before license renewal. Upon prior approval of the department, the department may reimburse a foster parent an established flat rate for this type of training.

If the foster parent cares for a child with a disability or a medical, behavioral, or emotional disorder, an additional 12 hours of training is required to meet the needs of the child. Upon prior approval of the department, the department may reimburse a foster parent for this type of training. Evidence of education, experience, or professional background in the specific area may be substituted for training to meet a child's specific needs.

The foster parent must supply the department or the child placement agency with documented evidence of completed training before each license renewal.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 12 SDR 4, effective July 25, 1985; 12 SDR 127, effective February 9, 1986; 17 SDR 157, effective April 23, 1991; 27 SDR 121, effective May 28, 2001; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16(1)(6).

Law Implemented: SDCL 26-6-16(1)(6).

67:42:05:04. Status and number of children cared for -- Exceptions. The family foster parent may provide care for up to 6 children, including the foster parent's own children who are under 18 years of age and residing in the home. There may be no more than 2 children under the age of 2, including the foster parent's own children. Exceptions to this requirement may be made by the department or the child placement agency to keep siblings together, ~~or~~ to place a child with a foster parent who is ~~their~~ a relative, to allow a parenting youth in foster care to remain with the youth's child, to allow a child who has an established meaningful relationship with the family to remain with the family, or to allow a family with special training or skills to provide care to a child who has a severe disability or special needs. The maximum number of 6 children may be waived for a period of up to 10 days for emergency placements or respite care.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; 11 SDR 101, effective February 3, 1985; 39 SDR 220, effective June 27, 2013; 41 SDR 218, effective June 30, 2015.

General Authority: SDCL 26-6-16(1)(5)(6).

Law Implemented: SDCL 26-6-16(1)(5)(6).

67:42:05:06. General qualifications for family foster care provider. In addition to the criteria of § 67:42:01:06, a family foster parent applicant or a licensed family foster parent ~~must~~ shall meet the following criteria before the applicant or foster parent may be licensed or relicensed as a family foster parent:

- (1) The applicant or foster parent ~~is~~ shall be at least 21 years of age and ~~resides~~ reside in a single family home in South Dakota. ~~Verification of age is required;~~
- (2) No household member ten years of age or older other than a child placed in the home for foster care ~~has~~ may have on record a substantiated report of child abuse or neglect;
- (3) No member of the applicant's or foster parent's household ~~has had~~ may have a conviction for any of the crimes specified in § 67:42:01:05.01;
- (4) The applicant or foster parent ~~has~~ shall have income ~~which~~ that meets the needs of the existing family, independent of the foster care maintenance payments;
- (5) The applicant's or foster parent's children, if any, ~~are~~ shall be willing to accept a child in foster care as a member of the family;
- (6) The applicant's or foster parent's family composition, needs, and relationships may not adversely affect a child in foster care;
- (7) If the applicant or foster parent is employed outside the home, the child placement agency must have approved the applicant's or foster parent's child care plan;
- (8) If the applicant or foster parent is married and both individuals are employed outside the home, the child placement agency must have approved the applicant's or foster parent's child care plan; ~~and~~

(9) The applicant or foster parent ~~has~~ shall have the ability to parent a child, which includes a basic understanding of the child's physical and mental or emotional development and the ability to fulfill the child's needs. The applicant or foster parent ~~must~~ shall have the ability to offer continuing care and guidance to a child throughout the stages of development in a manner consistent with the social and cultural heritage norms of the child. The applicant or foster parent must be able to continue meeting the needs of the applicant's or foster parent's own children, if any. The applicant or foster parent must display the capacity to provide good care for children- ;

(10) At least one applicant in the home shall have the ability to read and write; and

(11) The applicant or foster parent shall have reliable, legal, and safe transportation.

Vehicles utilized for transportation must be registered, insured, and equipped with safety restraints. Each driver shall have a driver license.

The department may require a psychological evaluation and the submission of medical records if ~~questions arise~~ during the application process or during the period of licensure questions arise regarding the applicant's or foster parent's emotional stability or the emotional stability of another household member.

Source: 4 SDR 2, effective July 25, 1977; 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from §§ 67:42:05:07 and 67:42:05:14, 11 SDR 101, effective February 3, 1985; 17 SDR 157, effective April 23, 1991; 20 SDR 223, effective July 7, 1994; 21 SDR 206, effective June 4, 1995; 35 SDR 187, effective February 11, 2009; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16(1)(2)(6).

Law Implemented: SDCL 26-6-16(1)(2)(6), 26-6-23.2.

Cross-References:

~~Evaluation~~ Initial evaluation and approval – Renewal of license, § 67:42:01:05;

Ability to provide care, § 67:42:01:06;

Training and development, § 67:42:05:03;

Application for ~~child welfare agency~~ license -- ~~Investigations by division~~

Investigation--Issuance--Conditions--Records--Public inspection, SDCL 26-6-11;

Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02;

Required criminal records checks, 42 U.S.C. § 671(a)(20).

67:42:05:20. Access to hazardous items. The following hazardous items must be inaccessible to ~~children~~ a child in foster care, unless under adult supervision:

- (1) Firearms, including pellet guns, BB guns, and cap guns;
- (2) Ammunition;
- (3) Archery bows and arrows; and
- (4) Matches and lighters.

Firearms must be kept unloaded, and locked in a ~~locked~~ room, closet, cabinet, or carrying case, and separate from the ammunition. Before a child in foster care under the age of 16 may hunt, the child must successfully complete a hunter safety course approved by the Department of Game, Fish and Parks under the applicable provisions of SDCL 41-7-1.

Alcoholic beverages, medications, poisonous materials, cleaning supplies, and other hazardous materials must be inaccessible to children. Smoking is prohibited in the foster family home or any vehicle used to transport the child while in the presence of a child in foster care.

The department may require the removal or correction of other hazardous conditions or circumstances not covered in this chapter if it considers the conditions or circumstances to have the potential to cause injury or illness to the child in care.

Source: 27 SDR 121, effective May 28, 2001; 39 SDR 220, effective June 27, 2013; 42 SDR 97, effective January 4, 2016.

General Authority: SDCL 26-6-16(2)(6).

Law Implemented: SDCL 26-6-16(2)(6).

Cross-References: Requirements for issuance of hunting license to child under sixteen -- Violation as misdemeanor, SDCL 41-7-1; Department to provide for course of instruction, SDCL 41-7-2; ~~Bowhunter education certification required for certain archery hunters, § 41:06:05:04.~~

67:42:05:23. Emergency preparedness. The applicant or foster parent shall maintain a list of emergency telephone numbers, including at least poison control, police, fire department, and hospital, and post those numbers in a prominent place in the home. The applicant or foster parent must maintain first aid supplies in the foster home.

Source:

General Authority: SDCL 26-6-16(1)(2)(6).

Law Implemented: SDCL 26-6-16(1)(2)(6).

67:42:05:24. Living space requirements. A family foster home must have:

- (1) Safe drinking water;
- (2) Appliances for the preparation of hot meals;
- (3) A toilet, sink, and tub or shower in operating condition;
- (4) Adequate light, heat, and ventilation; and
- (5) A working telephone.

Source:

General Authority: SDCL 26-6-16(2)(6).

Law Implemented: SDCL 26-6-16(2)(6).

CHAPTER 67:42:07
GROUP CARE CENTERS FOR MINORS

Section

67:42:07:01	Definitions.
67:42:07:01.01	Shelter care facility -- Length of stay.
67:42:07:01.02	Agreement to provide alternative services.
67:42:07:02	Qualifications for program director.
67:42:07:03	Staff-child ratio.
67:42:07:04	Orientation and in-service training.
67:42:07:04.01	Reasonable and prudent parent standard requirements.
67:42:07:05	Treatment plan.
67:42:07:06	Repealed.
67:42:07:07	Staff qualifications -- Contact with references required.
67:42:07:08	Repealed.
67:42:07:09	Personnel record.
67:42:07:10	Health care of children.
67:42:07:11	Fire and health inspections.
67:42:07:11.01	Building plans.
67:42:07:12	Sleeping space.
67:42:07:13	Nutrition requirements.
67:42:07:14	Volunteers.
67:42:07:15	Staff responsibility for reporting suspected in-house incidents of child abuse or neglect.

<u>67:42:07:15.01</u>	<u>Resident and family grievance procedures.</u>
67:42:07:16	Facility procedures for handling suspected in-house child abuse.
67:42:07:17	Interstate placement of children.
67:42:07:18	Written policy on discipline.
67:42:07:19	Written procedures for medication administration.
67:42:07:20	Psychotropic medications.
67:42:07:21	Repealed.
67:42:07:22	Required medication records.
67:42:07:23	Medication control.
67:42:07:24	Use of seclusion and restraint to be approved by child placement agency -- Required documentation.
67:42:07:25	Physical requirements for room used for seclusion.
67:42:07:26	Staff person to monitor seclusion room.
67:42:07:27	Placement in seclusion or restraint -- Limits.
67:42:07:28	Review and evaluation of treatment plan.
67:42:07:29	Written policy requirements.

67:42:07:01. Definitions. Terms As used in this chapter ~~mean~~:

(1) "After-care services;" means supportive social services, as specified in the treatment plan, for the family, after the child has returned home;

(2) "Alternative services;" means an array of services that may be provided by the group care center to a child and the child's family ~~that~~ and which are designed to enable the child to remain at home or to remain in or return to a placement in the nearest possible proximity to the child's home or placement resource;

(3) "Family services;" means social rehabilitative services provided to family members to alleviate problems that are specified in the treatment plan ~~that~~ and which keep a child from returning to the child's own home;

(4) "Group care center;" means a facility licensed by the department to care for children who are experiencing family problems and interpersonal conflicts, are unable to remain in a family setting, and require ongoing group and individual counseling or alternative services in a structured treatment program using facility-based services;

(5) "Personal restraint" ~~or "restraint,"~~ means the application of physical force without the use of any device for the purpose of restraining the free movement of a resident's body. The term does not include briefly holding a resident, without undue force, ~~in order~~ to calm or comfort the resident or holding a resident's hand ~~for purposes of~~ to safely escorting escort the resident from one area to another;

(6) "Program director;" means the individual responsible for developing, implementing, supervising, and monitoring the services provided;

(7) "Seclusion;" means ~~the involuntary confinement of a resident is involuntarily confined alone in a room or in an area from which the resident and~~ is physically prevented from leaving the room or area;

(8) "Shelter care facility;" means a group care center that provides short-term, full-time care for children ~~often who may be placed there~~ under emergency conditions. ~~This~~ The term includes ~~the placement of a child into a shelter care facility for purposes of providing a center that provides~~ short-term assessment services to children;

(9) "Short-term assessment services;" means planned or emergency diagnostic services that include use of a time-limited assessment or diagnostic process ~~used~~ to evaluate the child's and family's needs and determine the most appropriate level of care and services ~~needed~~; and

(10) "Treatment plan;" means a plan that explains the child's social, psychological, or medical, ~~or economic~~ problems, contains solutions to the problems, and describes the necessary steps and schedules to resolve the problems.

Source: SL 1975, ch 16, § 1; transferred from § 67:14:23:01, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:06:01, 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 4, effective July 25, 1985; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-14(1), 26-6-16.

67:42:07:09. Personnel record. A facility ~~shall~~ must maintain a personnel record on each employee and volunteer. The record must include the employee's or volunteer's educational background, job description, previous work history, annual performance appraisals together with the employee's or volunteer's comments on the appraisal, a record of orientation and in-service training, the annual assessment of training needs, documentation of the provider's contact with references, verification of screening for substantiated reports of child abuse or neglect, and verification that a criminal record check was completed.

The facility ~~shall~~ must make its personnel records available to the department for verification of the contents.

Source: SL 1975, ch 16, § 1; transferred from § 67:14:22:20, 4 SDR 10, effective August 28, 1977; transferred from § 67:41:05:12, 7 SDR 66, 7 SDR 89, effective July 1, 1981; transferred from § 67:42:06:07, 12 SDR 4, effective July 25, 1985; 20 SDR 223, effective July 7, 1994; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

~~Cross-Reference~~ Cross-References:

Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

Issuance of child welfare license -- Criminal record of applicant to be secured --

Waiver by applicant -- When application denied, SDCL 26-6-14.3.

Persons to whom criminal record requirement applies, SDCL 26-6-14.4.

67:42:07:15.01 Resident and family grievance procedures. The facility must develop and follow a written grievance procedure that allows a resident, the resident's parent or legal representative, a guardian, facility staff, or a concerned person in the resident's life to file a formal complaint related to the quality of care given to the resident in the facility. The facility's staff may not attempt to influence the resident's or other individual's statement about the facility when submitting the grievance or while the grievance is being resolved.

The facility must inform the resident and the resident's parent or guardian of the facility's grievance policy, including the procedure for filing a grievance and to whom a grievance must be made. The resident and the resident's parent or guardian must sign and date a statement to verify that the facility explained the grievance policy. The facility must make copies of the policy available upon request.

The facility must provide the person wanting to file a grievance with the necessary forms and assist them in filing the grievance.

The facility must identify the person who is authorized to accept and resolve a grievance.

The facility must, upon request, allow for the resolution of the grievance to be appealed to the highest level of the facility's administration.

A person who reports a grievance may not be subject to adverse action by the facility as a result of filing the grievance.

A person filing a grievance must receive an initial response within five days.

The facility must document the grievance filed along with the actions taken by the facility to resolve the grievance. Information regarding the grievance must be kept for two years after the grievance is resolved.

Source:

General Authority: SDCL 26-6-16(1)(2)(6).

Law Implemented: SDCL 26-6-16(1)(2)(6).

67:42:07:29. Written policy requirements. The facility ~~shall~~ must develop written policies ~~in the following areas~~ that address:

- (1) Intake;
- (2) Treatment;
- (3) Discharge;
- (4) Discipline;
- (5) Confidentiality;
- (6) Reporting suspected child abuse and neglect within the facility;
- (7) Use of seclusion and personal restraint, if used by the facility;
- (8) Health care of children;
- (9) Emergency and safety procedures ~~in case a child is injured~~; and
- (10) Reasonable and prudent parent standard.

The facility must inform the child's parent or guardian of these policies, including the individuals or agencies to whom required reports must be made. The child's parent or guardian ~~must~~ shall sign and date a statement that lists the specific policies covered as verification that the facility provided the required information. The facility ~~shall~~ must make copies of these policies available on request.

Source: 34 SDR 200, effective January 30, 2008; 42 SDR 97, effective January 4, 2016.

General Authority: SDCL 26-6-16(6).

Law Implemented: SDCL 26-6-16(6).

67:42:08:01.01. Eligibility requirements -- Residential treatment center. In addition to the requirements contained in this chapter, a residential treatment center must meet the requirements of 42 C.F.R. §§ 441.150 to ~~441.182, inclusive~~ through 441.184 (October 1, ~~2006~~ 2019) for a psychiatric residential treatment facility for individuals under the age of 21.

Source: 33 SDR 227, effective July 1, 2007.

General Authority: SDCL 26-6-16(2)(6)(11).

Law Implemented: SDCL 26-6-16(2)(6)(11).

67:42:08:09. Written policy requirements. The facility ~~shall~~ must develop written policies ~~in the following areas~~ that address:

- (1) Intake;
- (2) Treatment;
- (3) Discharge;
- (4) Discipline;
- (5) Confidentiality;
- (6) Reporting suspected child abuse and neglect within the facility;
- (7) ~~Use of emergency~~ Emergency safety ~~intervention~~ interventions, ~~if used, to include the phone number and mailing address for the South Dakota Division of Child Protection Services and the South Dakota Advocacy Services;~~
- (8) Health care of children; and
- (9) Emergency and safety procedures ~~in case a child is injured~~.

The facility must inform the child's parent or guardian of the facility's policies, including the individuals or agencies to whom required reports must be made. The child's parent or guardian must sign and date a statement that lists the specific policies covered as verification that the facility provided the required information. The facility ~~shall~~ must make copies of these policies available on request.

Source: 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16(6).

Law Implemented: SDCL 26-6-16(6).

CHAPTER 67:42:09
CHILD PLACEMENT AGENCIES

Section

67:42:09:01	Definitions.
67:42:09:02 and 67:42:09:03	Repealed.
67:42:09:04	Fees for services.
67:42:09:05 and 67:42:09:06	Repealed.
67:42:09:07	Qualifications for social work supervisor <u>staff</u> <u>providing supervision.</u>
67:42:09:07.01	Qualifications for social workers <u>Requirements for</u> <u>staff providing direct services and support to clients.</u>
67:42:09:08	Qualifications and responsibilities of paraprofessional staff.
67:42:09:08.01	Contact with references required.
67:42:09:09	Use of volunteers.
67:42:09:10	Orientation and in-service training.
67:42:09:11	Staff personnel records.
67:42:09:12	Repealed.
67:42:09:13	Standard requirements and responsibilities in the provision of client services.
67:42:09:14	Repealed.
67:42:09:15	Agency qualifications for adoptive applicants.
67:42:09:16	Adoptive placement services.

67:42:09:17	Foster care services.
67:42:09:18	Foster home services.
67:42:09:18.01	Repealed.
67:42:09:18.02	Host family volunteers.
67:42:09:19	Medical and dental services.
67:42:09:20	Repealed.
67:42:09:21	Legal services and responsibilities.
67:42:09:22	Other agency services.
67:42:09:23	Interstate placement of children.
67:42:09:24	Client case records.
67:42:09:25	Foster home record.
67:42:09:26	Adoptive home record.
67:42:09:27	Repealed.

67:42:09:07. Qualifications for ~~social work supervisor~~ staff providing supervision. An individual who supervises ~~social work activities~~ staff providing direct services and support must be ~~licensed as a certified social worker as provided in SDCL 36-26-14 and article 20:59 or be allowed to provide supervision under the provisions of § 20:59:05:03~~ a mental health professional who has at least a master's degree in psychology, social work, counseling, or nursing, currently holds a license in that field, and has two years of supervised post graduate clinical experience in a mental health, family, or child welfare setting. The ~~social work supervisor must have a minimum of two years of supervisory experience in a family or child welfare field and~~ supervisor may not have on record a substantiated report of child abuse or neglect.

Source: 7 SDR 66, 7 SDR 89, effective July 1, 1981; 12 SDR 187, effective May 29, 1986; 20 SDR 223, effective July 7, 1994; 27 SDR 121, effective May 28, 2001.

General Authority: SDCL 26-6-16(1)(6).

Law Implemented: SDCL 26-6-16(1)(6).

Cross-Reference: Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

67:42:09:07.01. ~~Qualifications for social workers~~ Requirements for staff providing direct services and support to clients. Staff performing intake services, direct services to children and families, case management, family education and support, liaison services, assessment studies for foster care, and adoptive services must ~~be either a licensed social worker as provided in SDCL 36-26-15, or a licensed social work associate as provided in SDCL 36-26-16.~~ A social worker have, at a minimum, an associate's degree in the social sciences or human services field and be supervised according to 67:42:09:07. Staff may not have on record a substantiated report of child abuse or neglect.

Source: 12 SDR 187, effective May 29, 1986; 20 SDR 223, effective July 7, 1994.

General Authority: SDCL 26-6-16(1)(6).

Law Implemented: SDCL 26-6-16(1)(6).

Cross-References: Standard requirements and responsibilities in the provision of client services, § 67:42:09:13; Screening for substantiated reports of abuse and neglect, § 67:42:01:05.02.

67:42:15:02. Eligibility requirements -- IRTC. Before the department licenses an IRTC, the facility must provide documentation to the department that indicates the facility meets the requirements of a psychiatric residential treatment facility for individuals under the age of 21, pursuant to 42 C.F.R. §§ 441.150 to 441.182, inclusive through 441.184 (October 1, 2006 2019) and is accredited ~~either~~ by the Council on Accreditation (COA) in the area of residential treatment services, by the Joint Commission in the area of behavioral health care, or by the Commission of Accreditation of Rehabilitation Facilities (CARF) in the area of behavioral health or child and youth services.

~~At a minimum, the~~ The facility ~~shall~~ must provide the following services:

- (1) Psychological services;
- (2) Treatment planning;
- (3) Case management;
- (4) Psychiatric services;
- (5) Family services;
- (6) Transitional services; and
- (7) Aftercare services.

If the child is discharged to the child's home, a relative's home, a family foster home, or an adoptive home, the facility ~~shall~~ must ensure that aftercare services are provided, either directly or through referral, for a minimum of 90 days following discharge from the facility, and at a location agreed to by the family.

Source: 32 SDR 33, effective August 31, 2005; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008; 39 SDR 220, effective June 27, 2013.

General Authority: SDCL 26-6-16(1)(6)(11).

Law Implemented: SDCL 26-6-16(1)(6)(11).

67:42:15:18. Written policy requirements. In addition to the written policy statements required under ~~the provisions of~~ chapter 67:42:07, the facility must develop written policies ~~in the following areas~~ that address:

- (1) Intake;
- (2) Treatment;
- (3) Discharge;
- (4) Confidentiality;
- (5) ~~Use of emergency~~ Emergency safety ~~intervention~~ interventions, ~~to include the phone number and mailing address for the South Dakota Division of Child Protection Services and the South Dakota Advocacy Services;~~
- (6) Emergency and safety procedures ~~in case a child is injured~~;
- (7) Family services; and
- (8) Aftercare services.

The facility must inform the child's parent or guardian of the facility's policies, including the individuals or agencies to whom required reports must be made. The child's parent or guardian must sign and date a statement that lists the specific policies covered as verification that the facility provided the required information. The facility ~~shall~~ must make copies of these policies available on request.

Source: 32 SDR 33, effective August 31, 2005; 33 SDR 227, effective July 1, 2007; 34 SDR 200, effective January 30, 2008.

General Authority: SDCL 26-6-16.

Law Implemented: SDCL 26-6-16.

Cross-Reference: Protection of residents -- Emergency safety intervention, 42

C.F.R. § ~~483.354(b)~~ 483.356(b).