



TITLE	POLICY NUMBER	
Kinship Waivers for Foster Homes	DCS 15-07	
RESPONSIBLE AREA	EFFECTIVE DATE	REVISION
Office of Licensing and Regulation	02/04/2019	1

I. POLICY STATEMENT

[Arizona Revised Statute § 8-514\(B\)](#) states that a child shall be placed in the least restrictive type of placement available, consistent with the best interests of the child. Office of Licensing and Regulation (OLR) rules provide a specific process to allow consideration of kinship care applicants unable to meet all requirements of [Arizona Administrative Code, Title 21, Chapter 6](#) to obtain licensure.

II. APPLICABILITY

This policy applies to applicants for an initial, renewal, or an amendment to a foster care license who qualify as providers of kinship care as defined below, to all adult household members in the applicant’s home, and to OLR staff who review license applications and issue foster care licenses.

III. AUTHORITY

42 U.S.C. § 671(a)(19)	State plan for foster care and adoption assistance
A.A.C. R21-6-222	Waiver of Non Safety and Licensing Requirements for Kinship Care
A.A.C. R21-6-305	Nurturing Responsibilities
A.A.C. R21-6-306	Supervisory Responsibilities

A.A.C. R21-6-419	Waiver of Non Safety Licensing Requirements for Kinship Care
A.R.S. § 8-453	Powers and Duties
A.R.S. § 8-509	Licensing of foster homes; renewal of license; provisional license; exemption from licensure; immunization requirements
A.R.S. § 8-514(B)	Placement in foster homes
A.R.S. § 41-619.55	Good cause exceptions; expedited review; hearing; revocation
A.R.S. § 41-1080	Licensing eligibility; authorized presence; documentation; applicability; definitions
A.R.S. § 41-1758.07	Level I fingerprint clearance cards; definitions

IV. DEFINITIONS

Authorized Presence: A term used in [A.R.S. § 41-1080](#) that prohibits the issuance of a license by an agency or political subdivision of the state to an individual if the individual does not provide documentation of citizenship or alien status.

Cardholder: as defined in [A.R.S. § 36-2801 \(2\)](#), a qualifying patient, a designated caregiver or a nonprofit medical marijuana dispensary agent who has been issued and possesses a valid registry identification card.

Department or DCS: The Arizona Department of Child Safety.

Hardship: The lack of financial or other ability of a prospective kinship care foster parent to meet a licensing requirement.

Kinship care: As defined in [A.A.C. R-21-6-101\(36\)](#), that “the care and supervision of a foster child in a foster home is provided by a relative or an individual who has a significant relationship with the child.”

Kinship waiver: A process by which OLR validates a request made through a private licensing agency to license a family as kinship care when there are licensing requirements the applicant is unable to meet due to hardship.

Marijuana: as defined in [A.R.S. § 36-2801 \(10\)](#), all parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant.

Medical Marijuana Card or Registry Identification Card or Arizona Medical Marijuana Program ID (MMP-ID): as defined in [A.R.S. § 36-2801 \(164\)](#), a document issued by the Department of Health Services that identifies a person as a registered qualifying patient, registered designated caregiver or a registered nonprofit medical marijuana dispensary agent.

Preliminary Consideration Waiver Non-Safety and FPC Licensing Standards for Kinship Care form: Referred to in this policy as “CSO-1240”, this form is completed by the licensing agency to detail the applicant’s need for a waiver on a licensing requirement.

V. POLICY

- A. Based on information provided by the licensing agency, OLR will assess requests to waive certain licensing requirements to allow a kinship care provider to be licensed as a foster home. The request must be based on a specific rule and the needs of the foster child.
- B. OLR may suggest, at its discretion, solutions to waiver requests that do not demonstrate a need for a waiver.
- C. If the waiver is approved and the license is issued, the license shall be restricted to the kinship child or children placed into the home by the Department.
- D. Waiver of more than one rule may be requested using the [CSO-1240](#) form; however, each rule must be justified independently.
- E. Kinship waivers shall not be granted solely for the convenience of the applicant.
- F. Additional adult household members, including the biological parent of the child, shall only reside in the home of the licensed kinship caregiver if an amendment to the license has been submitted and approved by OLR.

VI. PROCEDURES

When an applicant for a foster care license qualifies as a kinship care provider but is unable to meet licensing rules, the licensing agency shall complete the [CSO-1240](#) form and submit to OLR following instructions detailed on the form.

- A. Examples of items that may be waived if justified (please note this is not an exhaustive list - additional scenarios may be approved and should be staffed with OLR for assistance) include:
1. applicants 18 to 20 years of age [A.A.C. R21-6-301\(A\)\(1\)](#);
 2. applicants who do not meet the minimum financial requirements [A.A.C. R21-6-301\(A\)\(7\)](#);
 3. homes that lack sufficient bedrooms or homes where bedrooms do not meet all of the requirements prescribed in [A.A.C. R21-6-311](#);
 4. applicants without sufficient bathrooms as prescribed in [A.A.C. R21-6-331\(E\)\(4\)\(d\)](#);
 5. applicants and/or additional household members who submit [Physician's Statement \(CSO-1269A\)](#) and/or [Health Self Disclosure \(CSO-1232A\)](#) documents older than six (12) months as prescribed in [A.A.C. R21-6-301\(A\)\(5\)\(a\)\(iii\)](#); and
 6. sharing of bedrooms beyond what is prescribed in [A.A.C. R21-6-310](#) including:
 - a. sharing a bedroom with the applicant or another adult household member; and
 - b. sharing a bedroom with a child of the opposite gender.
 7. applicants unable to attain a Level One Fingerprint Clearance Card; per [A.R.S. § 8-509](#), each foster parent and other adult member of the household must have a valid fingerprint clearance issued pursuant to [A.R.S. § 41-1758.07](#).

- a. If the applicant or an adult member of the applicant's household is denied a Fingerprint Clearance Card, the contractor shall support the family in the good cause exception process through DPS, as well as an appeal if necessary. Upon denial, the contractor shall attain a copy of the denial letter from DPS or the applicant and send it to DCS with the completed CSO-1240 form.
 - b. DCS will review the denial letter and CSO-1240 to approve or deny a waiver and issue a restricted license if approved.
 8. applicants that hold a medical marijuana card and use marijuana for medical purposes shall submit a completed CSO-1240 form that includes:
 - a. the medical condition requiring the use of marijuana to be reflected on CSO-1269A Physician's Statement and CSO-1232A Health Self Disclosure; and
 - b. a documented plan to address alternate supervision.
- B. Items that cannot be waived due to safety issues include:
1. insufficient time to provide supervision and nurture a foster child as described in [A.A.C. R21-6-305](#) and [A.A.C. R-21-6-306](#);
 2. a child sleeping on the top tier of a bunk bed who is less than 6 years old, has a disability limiting mobility, or has a seizure disorder as prescribed in [A.A.C. R21-6-311\(E\)\(1\)\(c\)\(ii-iii\)](#);
 3. a top bunk that does not meet rule requirements of [A.A.C. R21-6-311\(E\)\(2\)](#);
 4. incomplete or insufficient training prescribed in [A.A.C. R21-6-303](#). A provisional license may be issued as prescribed in [A.R.S. § 8-509](#);
 5. requirements in [A.A.C. Title 21, Chapter 8](#) (Foster Home and Child Welfare Agency Facility Safety); and
 6. the use of recreational marijuana and selling or growing marijuana for either medical or recreational use by applicants, licensees and household members.

- C. The kinship care waiver must be submitted with the initial application, each amendment request, and at each license renewal. The expectation is for the licensee to attempt to come into compliance by the date, or prior to the date, agreed upon and noted in the CSO-1240 form.
- D. If an amendment to the license is submitted to allow the child's biological parent to reside in the home, the waiver request must include a current FFA-Progress Update noting a change in household composition, updated Safety Plan and Safety Planning TDM Summary Report.
- E. Approval or Denial of the [CSO-1240](#) Form
1. The Foster Home Licensing (FHL) Unit Manager or designee shall review the CSO-1240 and may consult with other professionals for assistance in determining if a requested rule waiver involves a safety issue.
 2. If it is determined by the FHL Unit Manager or designee that a requested waiver does constitute a safety issue, the FHL Unit Manager or designee shall request a waiver review by the Program Administrator before a final decision is made.
 3. A copy of the completed CSO-1240 shall be returned to the submitting licensing agency worker citing the reason for the decision in the space provided on the form.
 4. If OLR denies a CSO-1240, and the application is submitted resulting in a denial of the license under [A.A.C. R-21-6-414](#), the applicant may appeal that licensing decision per [A.A.C. R-21-6-417](#).
- F. Noncompliance with an Approved CSO-1240 Form

If the licensee was unable to come into compliance by the target date or expiration date of the approved waiver, the licensing agency shall submit a new CSO-1240 to OLR prior to the target or expiration date. The new waiver must be completed in its entirety and provide reasons why the target date was not met.

VII. FORMS INDEX

Health Self Disclosure (CSO-1232A)

Physician's Statement (CSO-1269A)

Preliminary Consideration Waiver Licensing Standards for Kinship Care (CSO-1240)