

**State of Wisconsin
Department of Children and Families**

Supporting Normalcy for Children in Out-of-Home Care

DCF 52, 54, 56, 57, and 59

Emergency Rule

The Wisconsin Department of Children and Families orders the **repeal** of ss. DCF 56.05 (1) (b) 1. (note), 56.08 (6) (b), 57.23 (2) (a) 13. (note), and 57.38 (1) (g) (note); the **renumbering** of ss. DCF 54.02 (3m), 57.04 (1), 59.02 (1), and 59.08; the **renumbering and amendment** of ss. DCF 52.22 (2) (a); the **amendment** of ss. DCF 52.41 (1) (intro.), 52.62 (8) (b), 56.02 (2) (a) 1., 56.02 (17), 56.05 (1) (a) 3., 56.08 (4) (a), (5) (c) 1., and (6) (a), 56.09 (2) (e), 56.14 (6) (a) 3., 57.23 (2) (title) and (a) (intro.), and 57.58 (2); the **repeal and recreation** of ss. 52.22 (3) (b), 56.08 (5) (c) 2., 57.23 (1), and (2) (a) 13. and (b), 57.38 (1) (g), and 59.07 (1) (a); and the **creation** of ss. DCF 52.03 (1), (5m), (16m), (21g), (22m), and (23m), 52.12 (5) (gm) and (10) (a) 12., 52.22 (2) (ag) and (3) (bm), 52.41 (1) (d), (1) (d), and (1m), 52.415, 52.49 (2) (b) 1. dm., 54.02 (3m) (a) (title), and (b), 54.04 (1) (h), 56.03 (1d) (11r), (27r), and (34m), 56.05 (1) (a) 1., (b) 1. p., and (c) 1. o., 56.08 (4) (a) (note), 56.09 (2m) and (11) (a) 10., 56.12 (1) (h), 56.13 (7) (e) 1. g. and h. and 3., 56.15 (1) (a) 8. to 12., 56.16 (1) (m), (n), 56.17 (2) (b) 3. g., 57.04 (1), (13m), (25m), (32m), and (37m), 57.05 (2) (p) 4., (q), 57.16 (4m), 57.17 (2) (L), 57.215, 57.23 (2) (a) 14. and (am), 57.245, 59.02 (1), (4c), (6m), (9g), and (10m), 59.04 (3m) and (6) (bm), 59.055, 59.057, 59.08 (1) (title), and 59.08 (2), relating to supporting normalcy for children in out-of-home care.

This emergency rule was approved by the governor on November 14, 2016

The statement of scope for this rule, SS 039-16, was approved by the governor on May 19, 2016, published in Register 725A, on May 23, 2016, and approved by Secretary Eloise Anderson on June 10, 2016.

Finding of Emergency

2015 Wisconsin Act 128, Section 91, authorizes the department to promulgate the rules required under ss. 48.383 (3), 48.67 (4) (a) 1m. and (5), and 938.383 (3), Stats., as created by 2015 Wisconsin Act 128, without providing a finding of emergency.

Effective October 1, 2016, 2015 Wisconsin Act 378 requires the use of a standardized assessment tool approved by the department to conduct an investigation of an applicant for approval of a placement for adoption, recognition of a foreign adoption, and issuance of a license to operate a foster home. An emergency rule is necessary to comply with this requirement as soon as possible and incorporate related procedures into the licensing rules for foster care and child-placing agencies.

Analysis Prepared by the Department of Children and Families

Statutory authority: Sections 48.67 (4) (a) 1m. and (5), 48.383 (3) and 938.383 (3), Stats., as created by 2015 Wisconsin Act 128; Sections 48.67 (intro.) and 227.11 (2) (a), Stats.

Statutes interpreted: Sections 48.02 (1dm) and (14r), 48.67 (4) (a) 1m. and (5), 48.383, 938.02 (1g) and (14r), and 938.383, Stats., as created by 2015 Wisconsin Act 128; Sections 48.75 (3) and 48.88 (2) (aj), Stats., as created by 2015 Wisconsin Act 378; Sections 48.67 (intro.) and 48.72, Stats.

Related statutes: Section 895.485 (5) and (6), Stats., as created by 2015 Wisconsin Act 128

Explanation of Agency Authority

Sections 48.383 (3) and 938.383 (3), Stats., as created by 2015 Wisconsin Act 128, require the department to promulgate rules to implement the requirements regarding the reasonable and prudent parent standard in ss. 48.383 and 938.383 (3), Stats.

Sections 48.383 (1), and 938.383 (1), Stats., as created by 2015 Wisconsin Act 128, require out-of-home care providers to use the “reasonable and prudent parent standard” in making decisions concerning a child’s or juvenile’s participation in “age or developmentally appropriate” extracurricular, enrichment, cultural, and social activities. In making decisions using the reasonable and prudent parent standard, an out-of-home care provider shall consider the restrictiveness of the child’s placement and whether the child has the necessary training and safety equipment to safely participate in the activity under consideration and may not make any decision that is in violation of any court order or any federal or state law, rule, or regulation.

Sections 48.383 (2) and 938.383 (2), Stats., as created by 2015 Wisconsin Act 128, provide that the information that a placing agency is required to provide to an out-of-home care provider at the time of placement include child-specific or juvenile-specific information that the provider must consider in making reasonable and prudent parenting decisions concerning the child’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

In preparing that information or any revisions of that information, the agency shall do all of the following:

- If reasonably possible to do so, consult with the child’s parent concerning the child’s participation in extracurricular, enrichment, cultural, and social activities and the child’s cultural, religious, and tribal values and advise the parent that those values will be considered, but will not necessarily be the determining factor, in making decisions concerning the child’s participation in those activities.
- Consult with the child in an age-appropriate manner about the opportunities of the child to participate in age or developmentally appropriate activities.

The placing agency shall explain to the out-of-home care provider the parameters of the considerations that the out-of-home care provider is required to take into account when making decisions concerning the child’s or juvenile’s participation in age or developmentally appropriate

extracurricular, enrichment, cultural, and social activities. In explaining those parameters, the agency shall explain the considerations and prohibitions and shall advise the out-of-home care provider that in case of any disagreement over the application of the reasonable and prudent parent standard, the agency having placement and care responsibility for the child is ultimately responsible for decisions concerning the care of the child.

Sections 48.02 (14r) and 938.02 (14r), Stats., as created by 2015 Wisconsin Act 128, define the “reasonable and prudent parent standard” as a standard for an out-of-home care provider to use when making decisions concerning a child’s or juvenile’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the child or juvenile while at the same time encouraging the emotional and developmental growth of the child or juvenile.

Sections 48.02 (1dm) and 938.02 (1g), Stats., as created by 2015 Wisconsin Act 128, define “age or developmentally appropriate activities” as activities that are generally accepted as suitable for children or juveniles of a given chronological age or level of maturity or that are determined to be developmentally appropriate for a child or juvenile based on the cognitive, emotional, physical, and behavioral capacities that are typical for children or juveniles of a given age or age group or, in the case of a specific child or juvenile, activities that are suitable for the child or juvenile based on the cognitive, emotional, physical, and behavioral capacities of that child or juvenile.

Section 48.67 (4) (a) 1m., Stats., as created by 2015 Wisconsin Act 128, directs the department to promulgate rules that require all foster parents to successfully complete training on the use of the reasonable and prudent parent standard in making decisions about a child’s participation in age or developmentally appropriate activities, including all of the following:

- The stages in the development of cognitive, emotional, physical, and behavioral capacities of children.
- Applying the reasonable and prudent parent standard in making decisions on all of the following:
 - A child’s participation in extracurricular, enrichment, cultural, or social activities, such as sports, field trips, overnight, and other recreational activities.
 - The signing of permission slips and the arrangement of transportation to and from those activities.
 - The child’s choices with respect to transportation, employment, peer relationships, and personal expression.

Those rules shall require a foster parent who has received that training to make reasonable and prudent parenting decisions in accordance with the reasonable and prudent parent standard.

Section 48.67 (5), Stats., as created by 2015 Wisconsin Act 128, directs the department to promulgate rules that require all residential care centers for children and youth, all group homes, and all shelter care facilities to designate an on-site staff member to make decisions concerning the participation of a child placed in the center, group home, or shelter care facility in age or developmentally appropriate activities. The designated staff member will be required to successfully complete the training described in s. 48.67 (4) (a) 1m., Stats. Those rules shall require

the trained staff member to make reasonable and prudent parenting decisions in accordance with the reasonable and prudent parent standard.

Section 48.75 (3), Stats., as created by 2015 Wisconsin Act 378, provides that before a child welfare agency or public licensing agency issues a license to operate a foster home, the agency shall require that each foster parent receive a favorable report following an investigation that is conducted in the same manner as the investigation under s. 48.88 (2) (aj), Stats., as created by 2015 Wisconsin Act 378, is conducted.

Section 48.88 (2) (aj), Stats., as created by 2015 Wisconsin Act 378, provides the following:

- In determining whether the petitioner's home is suitable for the child, the agency or tribal child welfare department making the investigation shall consider whether the petitioner is fit and qualified to care for the child, exercises sound judgment, does not abuse alcohol or drugs, and displays the capacity to successfully nurture the child.
- The investigation shall be conducted using an assessment system that is approved by the department. The assessment system shall provide a reliable, comprehensive, and standardized qualitative evaluation of a petitioner's personal characteristics, civil and criminal history, age, health, financial stability, and ability to responsibly meet all requirements of the department.
- If the agency or tribal child welfare department making the investigation has special concern as to the welfare of the child or the suitability of the placement, the investigation may include a clinical assessment of the petitioner's mental health or alcohol or other drug use by an employee of the agency or tribal child welfare department who is not employed in the unit of the agency or tribal child welfare department that is making the investigation or by a person who is not employed by that agency or tribal child welfare department. A person who provides such an assessment shall be a licensed psychologist, licensed psychiatrist, certified advanced practice social worker, certified independent social worker, licensed clinical social worker, or licensed professional counselor.

Summary of the Emergency Rules

Reasonable and Prudent Parent Standard

The rule-making order implements the requirement in ss. 48.383 and 938.383, Stats., as created by 2015 Wisconsin Act 128, that out-of-home care providers use the reasonable and prudent parent standard when making decisions regarding the participation by a child placed in the provider's home or facility in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities. The rule-making order incorporates this requirement into the licensing rules for residential care centers, foster homes, group homes, and shelter care facilities.

The reasonable and prudent parent standard is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the child while at the same time encouraging the emotional and developmental growth of the child. The rule-making order requires an out-of-home care provider to consider decision-making factors specified in the rule to ensure that the provider is making an informed decision that complies with the requirements of the standard.

The child-specific factors to be considered when making a reasonable and prudent parenting decision are the child's wishes, as gathered by engaging the child in age-appropriate discussions about participation in the activity; the age, maturity, and development of the child; whether

participating in the activity is in the best interest of the child; the child's behavioral history; court orders and other legal considerations affecting the child; and cultural, religious, and tribal values of the child and the child's family. The licensing rules for residential care centers and group homes also require the provider to consider the child's treatment plan.

The activity-specific factors to be considered when making a decision are the potential risk factors of the situation, including whether the child has the necessary training and safety equipment to safely participate in the activity under consideration; how the activity will help the child grow; whether participating in the activity will provide experiences that are similar to the experiences of other children in the home or facility; other information regarding the parent's or guardian's wishes and values; any other concerns regarding the safety of the child, other children in the home or facility, or the community; and information on the forms required under ch. DCF 37. The placing agency provides the forms required under ch. DCF 37 to residential care centers, foster parents, group homes, and shelter care facilities at or near the time of the child's placement. The forms include information on the child's skills, needs, and activities. The requirement to use the forms for children placed in facilities other than foster homes became effective July 1, 2016. Residential care centers and group homes are also required to incorporate the information on the forms into the child's treatment plan.

An out-of-home care provider may not use the reasonable and prudent standard to permit a child to participate in an activity that would violate a court order or any federal or state statute, rule, or regulation; make decisions that conflict with the child's permanency plan or family interaction plan; consent to the child's marriage; authorize the child's enlistment in the U.S. armed forces; authorize medical, psychiatric, or surgical treatment for the child beyond the terms of the consent for medical services authorized by the child's parent or guardian; represent the child in legal actions or make other decisions of substantial legal significance; determine which school the child attends or make decisions concerning the child regarding an educational right or requirement that is provided in federal or state law; require or prohibit a child's participation in an age or developmentally appropriate activity solely for convenience or, in the foster care rules, based on the foster parent's values and, in the facility rules, for personal reasons not applicable to the decision-making factors in the rules.

An out-of-home care provider is required to complete training on the application of the reasonable and prudent parent standard prior to making reasonable and prudent parenting decisions. Residential care centers, group homes, and shelter care facilities are required to designate a person to make reasonable prudent parenting decisions and to have at least one decision maker present on-site at all times. The rules define this person as an "RPPS decision maker." An RPPS decision maker may be a licensee, authorized representative of the licensee, or staff members specified in each rule. Resident care staff who provide direct care to children are required to have been employed for at least 3 months or 240 hours.

Residential care centers, group homes, and shelter care facilities are required to have policies and procedures on how the facility complies with the requirements of the reasonable and prudent parent standard. The policies and procedures will include how a communication log will be used to document all reasonable and prudent parenting decisions. The communication log will also include significant incidents involving a child; staff arrival and departure times; and each resident's location, behavior, and program participation during the shift. If an RPPS decision maker makes a decision that involves the facility providing written permission in lieu of a child's parent or

guardian, the RPPS decision maker is required to complete a department-prescribed form and place the form in the child's facility record.

Home Study

The rule-making order also incorporates into the foster care and child-placing agency rules the provision in 2015 Wisconsin Act 378 that requires that an agency use all components of a standardized assessment tool prescribed by the department to conduct a home study required for approval of a placement for adoption, recognition of a foreign adoption, and issuance of a license to operate a foster home. The standardized assessment tool prescribed by the department is *Structured Analysis Family Evaluation* (SAFE).

Summary of Factual Data and Analytical Methodologies

The rule is based on information provided to states to assist with implementation of the federal requirement that out-of-home care providers use the reasonable and prudent parent standard to support normalcy for children in out-of-home care by promoting participation in age or developmentally appropriate activities.

Summary of Related Federal Law

One of the purposes of the "Preventing Sex Trafficking and Strengthening Families Act" (Public Law 113-183) is to prevent and address sex trafficking of children who are in out-of-home care. Section 111 of the Act on "Supporting Normalcy for Children in Foster Care" requires states to promote participation of children in out-of-home care in age or developmentally appropriate activities and to permit out-of-home care providers to use the reasonable and prudent parent standard when determining whether to consent to a child's participation in these activities. These requirements are conditions of federal funding for a state's out-of-home programs under Title IV-E of the Social Security Act (42 USC 670 to 42 USC 679c).

Definitions used in Title IV-E, 42 USC 675, as affected by The "Preventing Sex Trafficking and Strengthening Families Act" (Public Law 113-183):

Reasonable and prudent parent standard: The term "reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. This standard is to be used when the out-of-home care provider is determining whether to allow a child in out-of-home care to participate in extracurricular, enrichment, cultural, and social activities. 42 USC 675 (10).

Age or developmentally-appropriate: The term "age or developmentally-appropriate" means activities or items that meet either of the following conditions:

- Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group.
- In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child. 42 USC 675 (11) (A).

State Plan Requirements for Title IV-E funding of a state's out-of-home care programs, 42 USC 671, as affected by The "Preventing Sex Trafficking and Strengthening Families Act" (Public Law 113-183):

Training

Before a child is placed with prospective foster parents, the prospective foster parents shall receive training on the reasonable and prudent parent standard for the participation of the child in age or developmentally-appropriate activities. The training shall include the following:

- Knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child.
- Knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, such as sports, field trips, and overnight activities that last one or more days and involve the signing of permission slips and arranging of transportation for the child to and from these activities. 42 USC 671 (a) (24).

Licensing Standards

(A) Foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for the institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and which shall permit use of the reasonable and prudent parent standard;

(B) The standards established pursuant to subparagraph (A) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this subchapter and shall require, as a condition of each contract entered into by a child care institution to provide foster care, the presence on-site of at least 1 official who, with respect to any child placed at the child care institution, is designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard to decisions involving the participation of the child in age or developmentally-appropriate activities, and who is provided with training in how to use and apply the reasonable and prudent parent standard in the same manner as prospective foster parents are provided the training pursuant to paragraph (24);

(C) The standards established pursuant to subparagraph (A) shall include policies related to the liability of foster parents and private entities under contract by the State involving the application of the reasonable and prudent parent standard, to ensure appropriate liability for caregivers when a child participates in an approved activity and the caregiver approving the activity acts in accordance with the reasonable and prudent parent standard.

Comparison to Adjacent States

Federal law requires all states to comply with requirements relating to the reasonable and prudent parent standard and to have a process for determining approval for foster and adoptive parents.

Effect on Small Businesses

The proposed rules will affect small businesses as defined in s. 227.114 (1), Stats., but will not have a significant economic effect on small businesses, including residential care centers, group homes, and child-placing agencies.

Analysis Used to Determine Effect on Small Businesses

The rules implement statutory requirements.

Agency Contacts

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SECTION 1. DCF 52.03 (1m), (5m), (16m), (21g), (22m), and (23m) are created to read:

DCF 52.03 (1m) “Age or developmentally appropriate activities” means activities that are generally accepted as suitable for children of a given chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the cognitive, emotional, physical, and behavioral capacities that are typical for children of a given age or age group or, in the case of a specific resident, activities that are suitable for the resident based on the cognitive, emotional, physical, and behavioral capacities of that resident.

(5m) “Family interaction plan” means a plan developed by a placing agency to promote a resident’s interaction with members of the resident’s family and includes interaction by face-to-face contact; telephone calls; letters; emails; and attendance at routine activities, such as counseling sessions, medical appointments, school events, and faith-related activities.

(16m) “Normalcy” means a resident’s ability to easily engage in healthy and age or developmentally appropriate activities that promote his or her well-being, such as participation in social, scholastic, and enrichment activities.

(21g) “Reasonable and prudent parent standard” means a standard for use in making decisions concerning a resident’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the resident while at the same time encouraging the emotional and developmental growth of the resident.

(22m) “Resident care worker” means a staff person specified in s. DCF 52.12 (1) (a) 5.

(23m) “RPPS decision maker” means an individual who has successfully completed training on the application of the reasonable and prudent parent standard and makes reasonable and prudent parenting decisions under s. DCF 52.415.

SECTION 2. DCF 52.12 (5) (gm) and (10) (a) 12. are created to read:

DCF 52.12 (5) (gm) *RPPS decision makers.* A center shall ensure that an individual specified in s. DCF 52.415 (2) (b) successfully completes training on the application of the

reasonable and prudent parent standard prior to making reasonable and prudent parenting decisions.

(10) (a) 12. For RPPS decision makers, documentation of the training under sub. (5) (gm).

SECTION 3. DCF 52.22 (2) (a) is renumbered 52.22 (2) (am) and DCF 52.22 (2) (am) (intro.), as renumbered, is amended to read:

DCF 52.22 (2) (am) (intro.) ~~Based on the initial assessment under sub. (1) (intro.), the~~ The treatment plan for a new resident shall address ~~the resident's strengths and weaknesses in~~ all of the following ~~areas~~:

SECTION 4. DCF 52.22 (2) (ag) is created to read:

DCF 52.22 (2) (ag) The treatment plan for a new resident shall be based on the initial assessment under sub. (1) (intro.) and incorporate information documented on the forms required under ch. DCF 37.

Note: The forms required under ch. DCF 37 are DCF-F-872A-E, *Information for Out-of-Home Care Providers, Part A* and DCF-F-872B-E, *Information for Out-of-Home Care Providers, Part B*. Both forms are available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

SECTION 5. DCF 52.22 (3) (b) is repealed and recreated to read:

DCF 52.22 (3) (b) At least once every 3 months, the center shall conduct a treatment plan review that includes a review of reasonable and prudent parenting requests and decisions made for a resident and the resident's progress toward meeting treatment plan goals. If available, the individuals who participated in the development of the resident's assessment and treatment plan shall be invited to participate in the review.

SECTION 6. DCF 52.22 (3) (bm) is created to read:

DCF 52.22 (3) (bm) The center shall conduct a treatment plan review and revise the treatment plan as needed, consistent with the resident's needs, treatment plan goals, and the permanency planning goals of the placing person or agency.

SECTION 7. DCF 52.41 (1) (intro.) is amended to read:

DCF 52.41 (1) (intro.) PROGRAM STATEMENT AND OPERATING PLAN. Each center shall have a written program statement describing center treatment purpose, philosophy, approach and methods used, and services available, ~~and as well as~~ a written operating plan describing available treatment and services as specified under pars. (a) to ~~(e)~~ (d). A center shall give a copy of the current center program statement and, upon request, the center operating plan, and all updates, to each resident's placing person or agency and, if not the same, the resident's parents or guardian and legal custodian, if any. A center's operating plan shall describe all of the following:

SECTION 8. DCF 52.41 (1) (d) and (1m) are created to read:

DCF 52.41 (1) (d) Reasonable and prudent parent standard. Policies and procedures on how the center complies with the requirements of the reasonable and prudent parent standard, including all of the following:

1. How the communication log under sub. (1m) will be used to inform different shifts of resident care workers and RPPS decision makers of reasonable and prudent parenting requests and decisions made for a resident under s. DCF 52.415.

2. How the information on the forms required under ch. DCF 37 will be incorporated into a new resident's treatment plan, as required under s. DCF 52.22 (2) (ag).

3. How the center will ensure the presence on-site of at least one RPPS decision maker at all times.

4. A process for annually reviewing the parameters and requirements of the reasonable and prudent parent standard in conjunction with the center's corresponding policies and procedures.

Note: DCF-F-5123-E, *Reasonable and Prudent Parent Standard Review*, is an optional form that a center may use to assist with the annual review. The form is available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

(1m) COMMUNICATIONLOG. A residential care center shall require each shift of resident care workers and RPPS decision makers to use a communication log to document and communicate with other resident care workers and RPPS decision makers about residents whom they supervise in common. The communication log shall include all of the following for each shift:

(a) Each resident's location, behavior, and program participation.

(b) Significant incidents involving a resident as provided in sub. (1) (a) 10. and the center's corresponding policy.

(c) Reasonable and prudent parenting requests and decisions made for residents under s. DCF 52.415.

(d) Staff arrival and departure times.

SECTION 9. DCF 52.415 is created to read:

DCF 52.415 Promoting normalcy. (1) SIMILAR TO PEERS. A residential care center shall promote normalcy and the healthy development of a resident by supporting the resident's right to participate in extracurricular, enrichment, cultural, and social activities and have experiences that are similar to peers of the same age, maturity, or development.

(2) RPPS DECISION MAKER. (a) A residential care center shall ensure the presence on-site of at least one RPPS decision maker at all times to make decisions regarding the participation of a resident in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(b) An RPPS decision maker may be a licensee, authorized representative of the licensee, or any staff person specified in s. DCF 52.12 (1) (a) 1. to 5. A resident care worker may be an RPPS decision maker only if he or she has been employed for at least 3 months or 240 hours.

(c) An RPPS decision maker shall have knowledge of a resident and access to the resident's treatment plan and other resident case records under s. DCF 52.49 related to the decision-making factors in sub. (4).

(d) An RPPS decision maker shall document all decisions made under this section in the communication log under s. DCF 52.41 (1m).

(e) An RPPS decision maker shall document on a form prescribed by the department any decision made under this section that requires written permission from the center in lieu of the resident's parent or guardian. The completed form shall be placed in the resident's case record under s. DCF 52.49 (2) (b).

Note: DCF-F-5124-E, *Reasonable and Prudent Parent Decision Record*, is available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

(3) REASONABLE AND PRUDENT PARENT STANDARD. When an RPPS decision maker is making a decision regarding a resident's participation in activities, the RPPS decision maker shall use a decision-making standard that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the resident while at the same time encouraging the emotional and developmental growth of the resident, if the activities meet the conditions in pars. (a) and (b) as follows:

(a) *Areas covered by the standard.* The resident is participating or wants to participate in extracurricular, enrichment, cultural, or social activities, including all of the following.

1. Activities related to transportation, such as obtaining a driver's license, driving, or carpooling with peers and other adults.

2. Formal or informal employment and related activities, such as opening an account in a bank or credit union.

3. Activities related to peer relationships, such as visiting with friends, staying overnight at a friend's house, or dating.

4. Activities related to personal expression, such as haircuts; hair dyeing; clothing choices; or sources of entertainment, including games and music.

(b) *Age or developmentally appropriate activities.* The resident is participating or wants to participate in activities that are suitable based on any of the following criteria:

1. Activities that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the cognitive, emotional, physical, and behavioral capacities that are typical for children of the same age or age group.

2. Activities that are suitable based on this resident's cognitive, emotional, physical, and behavioral capacities.

Note: The reasonable and prudent parent standard does not apply to a child receiving respite care services.

(4) DECISION-MAKING FACTORS. When applying the reasonable and prudent parent standard to a decision regarding a resident's participation in an extracurricular, enrichment, cultural, or social activity, an RPPS decision maker shall consider all of the following:

- (a) Child-specific factors, including all of the following:
1. The resident's treatment plan.
 2. The resident's wishes, as gathered by engaging the resident in an age-appropriate discussion about participation in the activity.
 3. The age, maturity, and development of the resident.
 4. Whether participating in the activity is in the best interest of the resident.
 5. The resident's behavioral history.
 6. Court orders and other legal considerations affecting the resident, including the prohibitions in sub. (5).
 7. Cultural, religious, and tribal values of the resident and the resident's family. If the resident and the resident's family have different cultural, religious, or tribal values, then the placing agency, or the department if the department is the resident's guardian, is ultimately responsible for decisions concerning the resident's care.

(b) Activity-specific factors, including all of the following:

1. Potential risk factors of the situation, including whether the resident has the necessary training and safety equipment to safely participate in the activity under consideration.
2. How the activity will help the resident grow.
3. Whether participating in the activity will provide experiences that are similar to the experiences of other residents of the same age, maturity, or development.
4. Other information regarding the parent's or guardian's wishes and values, as obtained during the development and review of the resident's treatment plan under s. DCF 52.22 (1) and (3) and other discussions with the resident's parent or guardian.

(c) Any other concerns regarding the safety of the resident, other residents in the residential care center, or the community.

(d) Information on the forms required under ch. DCF 37.

Note: The forms required under ch. DCF 37 are DCF-F-872A-E, *Information for Out-of-Home Care Providers, Part A* and DCF-F-872B-E, *Information for Out-of-Home Care Providers, Part B*. Both forms are available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

(5) PROHIBITIONS. An RPPS decision maker may not do any of the following:

- (a) Permit a resident to participate in an activity that would violate a court order or any federal or state statute, rule, or regulation.
- (b) Make a decision that conflicts with the resident's permanency plan or family interaction plan.
- (c) Consent to the resident's marriage.
- (d) Authorize the resident's enlistment in the U.S. armed forces.
- (e) Authorize medical, psychiatric, or surgical treatment for the resident beyond the terms of the consent for medical services authorized by the resident's parent or guardian.
- (f) Represent the resident in a legal action or make a decision of substantial legal significance.

(g) Determine which school the resident attends or make a decision for the resident regarding an educational right or requirement that is provided in federal or state law.

Note: For example, only a parent or guardian can make decisions about a resident's individualized educational program under s. 115.787, Stats.

(h) Require or prohibit a resident's participation in an age or developmentally appropriate activity solely for convenience or a personal reason not applicable to the decision-making factors in sub. (4).

SECTION 10. DCF 52.49 (2) (b) 1. dm. is created to read:

DCF 52.49 (2) (b) 1. dm. Reasonable and prudent parenting decision records required under s. DCF 52.415 (2) (e).

SECTION 11. DCF 52.62 (8) (b) is amended to read:

DCF 52.62 (8) (b) The request for a hearing shall be in writing and shall be filed with the department of administration's division of hearings and appeals within 10 days after the date on the notice of the department's refusal to issue a license or the department's revocation of a license. ~~A request for a hearing is considered filed upon its receipt by the department of administration's division of hearings and appeals.~~

SECTION 12. DCF 54.02 (3m) is renumbered DCF 54.02 (3m) (a).

SECTION 13. DCF 54.02 (3m) (a) (title) is created to read:

DCF 54.02 (3m) (a) (title) *Grounds.*

SECTION 14. DCF 54.02 (3m) (b) is created to read:

DCF 54.02 (3m) (b) Appeals. 1. Any person aggrieved by the department's decision to deny a license or to revoke a license may request a hearing on the decision under s. 227.42, Stats.

2. The request for a hearing shall be in writing and shall be filed with the department of administration's division of hearings and appeals within 10 days after the date on the notice of the department's refusal to issue a license or the department's revocation of a license.

Note: A request for hearing may be submitted by mail to the Division of Hearings and Appeals, P.O. Box 7875, Madison, Wisconsin 53707-7875 or delivered in person to the Division at 5005 University Ave., Room 201, Madison, WI, with a copy sent to the appropriate Department of Children and Families field office listed in Appendix A.

SECTION 15. DCF 54.04 (1) (h) is created to read:

DCF 54.04 (1) (h) An agency shall complete all components of a standardized assessment tool prescribed by the department to conduct the home study required for approval of a placement for adoption, recognition of a foreign adoption, and issuance of a license to operate a foster home. Completion shall include dates and signatures where specified by the tool.

Note: The standardized assessment tool prescribed by the department is the *Structured Analysis Family Evaluation* (SAFE) tool. Contact the department's Division of Safety and Permanence for further information at P.O. Box 8916, Madison, WI 53708-8916.

SECTION 16. DCF 56.02 (2) (a) 1. is amended to read:

DCF 56.02 (2) (a) 1. A licensing agency may grant an exception to any requirement in this chapter if the licensing agency determines that the exception will not jeopardize the health, safety or welfare of the foster children, except that the licensing agency may not grant an exception to any of the following requirements: ss. DCF 56.04 (1), (2), (4) (a) 1., 2., 5., 5m., 8., or 9. or (b) 2., (6), (7) or (8), 56.05 (1) (a), (b) 1. b. or p., 2. b., d., or g., (c) 1. b., c., d., e., g., h., i. j., k., L., m., n., or 2., (d), (f), or (3) (a), 56.06, 56.07 (3) (a), (4) (b), (c), (e), (f), (g), or (h), (5) (a), (6), or (10) (a), 56.08 (1), (2), (3), (4), (5), (6) (c) 1., 2., 3. or 4. a., (7) (a) 3., (8) (a), or (c), (10), or (10m), 56.09 (1), (1g), (1m) (a) to ~~(e)~~ (f), (2) (c), (2m), (3), (4) (c), (d) or (dm), (5), (9), (11), or (12) (a), (c) or (d), 56.12, 56.13 (1), (2), (3), (4) (a) 1., 2., or (b), (5) (a), (b) 1. or 2., (c), (6) (a), (b) 1. or 2., (c), (7), (8), 56.14 (1), (2), (3), (4), (5), (6), (6d), (6h), (6p), (6t), (7), (7e), (7m), (7s), (8) (a) or (b) 3., 56.15, 56.16, 56.18, 56.19, 56.21 (2), 56.22, or 56.23.

SECTION 17. DCF 56.03 (1d) and (11r) are created to read:

DCF 56.03 (1d) "Age or developmentally appropriate activities" means activities that are generally accepted as suitable for children of a given chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the cognitive, emotional, physical, and behavioral capacities that are typical for children of a given age or age group or, in the case of a specific child, activities that are suitable for the child based on the cognitive, emotional, physical, and behavioral capacities of that child.

(11r) "Family interaction plan" means a plan developed by a placing agency to promote a child's interaction with members of the child's family and includes interaction by face-to-face contact; telephone calls; letters; emails; and attendance at routine activities, such as counseling sessions, medical appointments, school events, and faith-related activities.

SECTION 18. DCF 56.03 (17) is amended to read:

DCF 56.03 (17) "Hazardous machinery and equipment" means any machine or other equipment generally known to be dangerous to untrained or unskilled operators or to operators who for any other reason are physically or mentally unable to operate the equipment safely, including a motor vehicle, power lawn mower, tractor or other farm machinery or equipment, snow blower, chain saw, power-driven shop tool, snowmobile, all-terrain vehicle and any other machinery or equipment determined by the licensing or supervising agency ~~to be unsafe for a particular foster child to operate.~~

SECTION 19. DCF 56.03 (27r) and (34m) are created to read:

DCF 56.03 (27r) "Normalcy" means the child's ability to easily engage in healthy and age or developmentally appropriate activities that promote his or her well-being, such as participation in social, scholastic, and enrichment activities.

(34m) “Reasonable and prudent parent standard” means a standard for use in making decisions regarding a child’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the child while at the same time encouraging the emotional and developmental growth of the child.

SECTION 20. DCF 56.05 (1) (a) 1. is repealed and recreated to read:

DCF 56.05 (1) (a) 1. A person licensed to operate a foster home shall be a responsible, mature individual who is fit and qualified, exercises sound judgment, displays the capacity to successfully nurture foster children, does not abuse alcohol or drugs, and does not have a criminal conviction, pending criminal charge, or a finding by a governmental body of a civil or criminal violation of statutes, regulations, or ordinances that is substantially related to the care of children or the operation of a foster home.

SECTION 21. DCF 56.05 (1) (a) 3. is amended to read:

DCF 56.05 (1) (a) 3. In determining whether a person is fit and qualified, the licensing agency shall consider the person’s qualifications under this section and ~~any history of whether the person~~ has a criminal conviction, pending criminal charge, or any finding by a governmental body of a civil or criminal violation of statutes, regulations, or ordinances of the United States, this state, any other state, any local government, or any other U.S. jurisdiction that is substantially related to the care of children or the operation of a foster home.

SECTION 22. DCF 56.05 (1) (b) 1. p. is created to read:

DCF 56.05 (1) (b) 1. p. A willingness to promote normalcy for a foster child by encouraging the child to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities under s. DCF 56.09 (2m).

SECTION 23. DCF 56.05 (1) (b) 1. (note) is repealed.

SECTION 24. DCF 56.05 (1) (c) 1. o. is created to read:

DCF 56.05 (1) (c) 1. o. Apply the reasonable and prudent parent standard when making decisions concerning a foster child’s participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities under s. DCF 56.09 (2m).

SECTION. 25. DCF 56.08 (4) (a) is amended to read:

DCF 56.08 (4) (a) Any licensee or other person acting on behalf of the licensee who transports foster children for any purpose shall possess a valid driver’s license. The licensing agency may establish additional requirements in this area by written policy, provided that the additional requirements do not prevent a foster parent from using the reasonable and prudent parent standard when making decisions concerning a child’s participation in age or

developmentally appropriate extracurricular, enrichment, cultural, and social activities under s. DCF 56.09 (2m).

SECTION 26. DCF 56.08 (4) (a) (note) is created to read:

DCF 56.08 (4) (a) (note) Note: For example, agencies cannot prohibit all youth from getting rides from peers or require that foster parents obtain prior agency approval for every person transporting the child.

SECTION 27. DCF 56.08 (5) (c) 1. The child is at least ~~12~~ 10 years of age.

SECTION 28. DCF 56.08 (5) (c) 2. is repealed and recreated to read:

DCF 56.08 (5) (c) 2. The foster parent applied the reasonable and prudent parent standard and gave permission for the child to participate in the activity.

SECTION 29. DCF 56.08 (6) (a) is amended to read:

DCF 56.08 (6) (a) No foster child under ~~14~~ 12 years of age may, unless otherwise permitted by statute, operate any hazardous machinery or equipment.

SECTION 30. DCF 56.08 (6) (b) is repealed.

SECTION 31. DCF 56.09 (2) (e) is amended to read:

DCF 56.09 (2) (e) A licensee shall ensure that foster children 10 years of age or older receive responsible supervision appropriate to their age, maturity and abilities as might reasonably be provided by a prudent parent to that parent's own children. An agency may not create supervision policies that interfere with a foster parent's ability to make reasonable and prudent parenting decisions concerning the child's participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities under s. DCF 56.09 (2m).

SECTION 32. DCF 56.09 (2m) is created to read:

DCF 56.09 (2m) PROMOTING NORMALCY. (a) *Family-like environment.* A foster parent shall promote normalcy and the healthy development of a child placed in his or her home with a family-like environment that supports the child's right to participate in extracurricular, enrichment, cultural, and social activities and have experiences that are similar to those of the child's peers.

(b) *Reasonable and prudent parent standard.* When a foster parent is making a decision concerning participation in an activity by a child placed in his or her home, the foster parent shall use a decision-making standard that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of a child while at the same time encouraging the emotional and developmental growth of the child, if the activity meets the conditions in subd. 1. and 2., as follows:

1. 'Areas covered by the standard.' The child is participating or wants to participate in extracurricular, enrichment, cultural, or social activities, including all of the following:

- a. Activities related to transportation, such as obtaining a driver's license, driving, or carpooling with peers and other adults.
- b. Formal or informal employment and related activities, such as opening an account in a bank or credit union.
- c. Activities related to peer relationships, such as visiting with friends, staying overnight at a friend's house, or dating.
- d. Activities related to personal expression, such as haircuts; hair dying; clothing choices; or sources of entertainment, including games and music.

2. 'Age or developmentally appropriate activities.' The child is participating or wants to participate in activities that are suitable based on any of the following criteria:

a. Activities that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the cognitive, emotional, physical, and behavioral capacities that are typical for children of the same age or age group.

b. Activities that are suitable based on this child's cognitive, emotional, physical, and behavioral capacities.

Note: The reasonable and prudent parent standard does not apply to a child receiving respite care services in a foster home.

(c) *Decision-making factors.* When applying the reasonable and prudent parent standard to a decision concerning a child's participation in an extracurricular, enrichment, cultural, or social activity, the foster parent shall consider all of the following:

1. Child-specific factors, including all of the following:

- a. The child's wishes, as gathered by engaging the child in an age-appropriate discussion about participation in the activity.
- b. The age, maturity, and development of the child.
- c. Whether participating in the activity is in the best interest of the child.
- d. The child's behavioral history.
- e. Court orders and other legal considerations affecting the child, including the prohibitions in par. (d).
- f. Cultural, religious, and tribal values of the child and the child's family.

Note: If the child and child's family have different cultural, religious, or tribal values, then the placing agency, or the department if the department is the child's guardian, is ultimately responsible for decisions concerning the child's care.

2. Activity-specific factors, including all of the following:

- a. Potential risk factors of the situation, including whether the child has the necessary training and safety equipment to safely participate in the activity under consideration.
- b. How the activity will help the child grow.
- c. Whether participating in the activity will provide an experience that is similar to the experiences of the foster parent's children and other children in the home.

3. Other information regarding the parent's or guardian's wishes and values, as obtained from the parent at team or treatment team meetings and through discussions with the child's

parent or guardian. A foster parent is not required to consult with the parent or guardian about every decision affecting the child.

4. Any other concerns regarding the safety of the child, household members, or the community.

5. Information on the forms required under ch. DCF 37.

Note: The forms required under ch. DCF 37 are DCF-F-872A-E, *Information for Out-of-Home Care Providers, Part A* and DCF-F-872B-E, *Information for Out-of-Home Care Providers, Part B*. Both forms are available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

(d) *Prohibitions.* A foster parent may not do any of the following:

1. Permit the child to participate in an activity that would violate a court order or any federal or state statute, rule, or regulation.

2. Make a decision that conflicts with the child's permanency plan or family interaction plan.

3. Consent to the child's marriage.

4. Authorize the child's enlistment in the U.S. armed forces.

5. Authorize medical, psychiatric, or surgical treatment for the child beyond the terms of the consent for medical services authorized by the child's parent or guardian.

6. Represent the child in a legal action or make a decision of substantial legal significance.

7. Determine which school the child attends or make a decision for the child regarding an educational right or requirement that is provided in federal or state law.

Note: For example, only a parent or guardian can make decisions about a child's individualized educational program under s. 115.787, Stats.

8. Require or prohibit a child's participation in an age or developmentally appropriate extracurricular, enrichment, cultural, or social activity solely for the foster parent's own convenience or based solely on the foster parent's own values.

(e) *Placing agency responsibilities.* When preparing the child-specific information to provide to the foster parent on the forms required under ch. DCF 37, the placing agency shall do all the following if reasonable and appropriate:

a. Consult with the child's parent or guardian and the child about the child's participation in extracurricular, enrichment, cultural, and social activities and the family's religious, cultural, and tribal beliefs and values.

Note: If the child is an Indian child, the placing agency should ask the parent and the family's tribe about specific tribal values.

b. Explain to the parent or guardian that the parent's values will be considered, but will not necessarily be the determining factor when decisions concerning the child's participation in activities are made.

(f) *Supervising agency.* A foster parent shall contact the supervising agency for assistance with the application of the reasonable and prudent parent standard.

SECTION 33. DCF 56.09 (11) (a) 10. is created to read:

DCF 56.09 (11) (a) 10. Reasonable and prudent parenting considerations for the child and decisions the foster parent has made by applying the reasonable and prudent parent standard.

SECTION 34. DCF 56.12 (1) (h) is created to read:

DCF 56.12 (1) (h) A brochure that explains the use and parameters of the reasonable and prudent parent standard.

Note: Form DCF-P-5105, *Promoting Normalcy for Children in Out-of-Home Care*, is available in the forms section of the department website at <http://dcf.wisconsin.gov>, or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

SECTION 35. DCF 56.13 (7) (e) 1. g. and h. are created to read:

DCF 56.13 (7) (e) 1. g. Ensure that the program staff are promoting normalcy for each child placed in the home by applying the reasonable and prudent parent standard when making decisions concerning a child's participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities under s. DCF 56.09 (2m).

h. Ensure that program staff have access to the information needed to make decisions concerning a child's participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities under s. DCF 56.09 (2m).

SECTION 36. DCF 56.13 (7) (f) 3. is amended to read:

DCF 56.13 (7) (f) 3. 'Responsibilities.' Program staff shall be responsible for daily supervision of the children and direct care to the children to ensure their safety and well-being, including promoting normalcy under s. DCF 56.09 (2m).

SECTION 37. DCF 56.14 (6) (a) 3. is amended to read:

DCF 56.14 (6) (a) 3. Caring for children in foster care, including promoting normalcy.

SECTION 38. DCF 56.15 (1) (a) 8. to 12. is created to read:

DCF 56.15 (1) (a) 8. Prior to or at the time of placement of a child with a foster parent, the supervising agency shall explain to the foster parent the child-specific considerations that the foster parent is required to take into account when applying the reasonable and prudent parent standard, as documented on the forms required under ch. DCF 37, and provide the foster parent with the brochure required under s. DCF 56.12 (1) (h).

9. Provide updated information to the foster parent about child-specific considerations for reasonable and prudent parenting decisions throughout the child's placement through team or treatment team meetings and when there is a significant change in circumstances.

10. Notify the placing agency of any updates to information about the child that were not included in the forms provided to the foster parent at the time of placement under ch. DCF 37, if the supervising agency and placing agency are not the same agency.

Note: The forms provided under ch. DCF 37 are DCF-F-872A-E, *Information for Out-of-Home Care Providers, Part A.* and DCF-F-872B-E, *Information for Out-of-Home Care Providers, Part B.* Both forms are

available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

11. Assist the foster parent and child with overcoming barriers to the child's participation in extracurricular, enrichment, cultural, and social activities that promote normalcy in an age and developmentally appropriate manner.

12. Assist with resolving a conflict among members of the child's team or treatment team on the application of the reasonable and prudent parent standard.

SECTION 39. DCF 56.16 (1) (m) and (n) are created to read:

DCF 56.16 (1) (m) Ensure that the foster parent is promoting normalcy for the child by providing opportunities for the child to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities under s. DCF 56.09 (2m).

(n) Use all components of a standardized assessment tool prescribed by the department to conduct the home study required for approval of a placement for adoption, recognition of a foreign adoption, and issuance of a license to operate a foster home.

Note: The standardized assessment tool prescribed by the department is the *Structured Analysis Family Evaluation* (SAFE) tool. Contact the department's Division of Safety and Permanence for further information at P.O. Box 8916, Madison, WI 53708-8916.

SECTION 40. DCF 56.17 (2) (b) 3. g. is created to read:

DCF 56.17 (2) (b) 3. g. Regular, ongoing opportunities to engage in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities under s. DCF 56.09 (2m).

SECTION 41. DCF 57.04 (1) is renumbered as DCF 57.04 (1m).

SECTION 42. DCF 57.04 (1), (13m), (32m), and (37m) are created to read:

DCF 57.04 (1) "Age or developmentally appropriate activities" means activities that are generally accepted as suitable for children of a given chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the cognitive, emotional, physical, and behavioral capacities that are typical for children of a given age or age group or, in the case of a specific resident, activities that are suitable for the resident based on the cognitive, emotional, physical, and behavioral capacities of that resident.

(13m) "Family interaction plan" means a plan developed by a placing agency to promote a resident's interaction with members of the resident's family and includes interaction by face-to-face contact; telephone calls; letters; emails; and attendance at routine activities, such as counseling sessions, medical appointments, school events, and faith-related activities.

(25m) "Normalcy" means a resident's ability to easily engage in healthy and age or developmentally appropriate activities that promote his or her well-being, such as participation in social, scholastic, and enrichment activities.

(32m) "Reasonable and prudent parent standard" means a standard for use in making decisions concerning a resident's participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities that is characterized by careful and

sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the resident while at the same time encouraging the emotional and developmental growth of the resident.

(37m) “RPPS decision maker” means an individual who has successfully completed training on the application of the reasonable and prudent parent standard and makes reasonable and prudent parenting decisions under s. DCF 57.245.

SECTION 43. DCF 57.05 (2) (p) 4. and (q) are created to read:

DCF 57.05 (2) (p) 4. Significant incidents involving a resident, including specifying the types of incidents that are required to be documented in the communication log under s. DCF 57.215.

(q) How the group home complies with the requirements of the reasonable and prudent parent standard, including all of the following:

1. How the communication log under s. DCF 57.215 will be used to inform different shifts of resident care staff and RPPS decision makers of reasonable and prudent parenting requests and decisions made for residents under s. DCF 57.245.

2. How the information on the forms required under ch. DCF 37 will be incorporated into a new resident’s treatment plan, as required under s. DCF 57.23 (2) (a) 14.

3. How the group home will ensure the presence on-site of at least one RPPS decision maker at all times.

4. A process for reviewing the parameters and requirements of the reasonable and prudent parent standard in conjunction with the group home’s corresponding policies and procedures.

Note: DCF-F-5123-E, *Reasonable and Prudent Parent Standard Review*, is an optional form that a group home may use to assist with the annual review. The form is available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

SECTION 44. DCF 57.16 (4m) is created to read:

DCF 57.16 (4m) REASONABLE AND PRUDENT PARENT STANDARD. A group home shall ensure that an individual specified in s. DCF 57.245 (2) (b) successfully completes training on the application of the reasonable and prudent parent standard prior to making reasonable and prudent parenting decisions.

SECTION 45. DCF 57.17 (2) (L) is created to read:

DCF 57.17 (2) (L) For RPPS decision makers, documentation of the training required under s. DCF 57.16 (4m).

SECTION 46. DCF 57.215 is created to read:

DCF 57.215 Communication log. A group home shall require each shift of resident care staff and RPPS decision makers to use a communication log to document and communicate with other resident care staff and RPPS decision makers about residents whom they supervise in common. The communication log shall include all of the following for each shift:

- (1) Each resident's location, behavior, and program participation.
- (2) Significant incidents involving a resident, as specified in the group home's policy and procedures.
- (3) Reasonable and prudent parenting requests and decisions made for residents under s. DCF 57.245.
- (4) Staff arrival and departure times.

SECTION 47. DCF 57.23 (1) is repealed and recreated to read:

DCF 57.23 (1) ASSESSMENT FOR RESPITE CARE. A program director shall ensure that an assessment of a child admitted to a group home under a voluntary agreement for respite care is completed before the child's date of admission to the group home. The assessment shall include all of the following:

- (a) Information on the child's developmental, behavioral, educational, and medical history; family and significant relationships; legal history; substance abuse history; and any past treatment.
- (b) A description of the child's current status, including mental status, medical needs, current activities, educational status, current and recent substance abuse use, and personal strengths.

SECTION 49. DCF 57.23 (2) (title) and (a) (intro.) are amended to read:

DCF 57.23 (2) RESIDENT ASSESSMENT AND TREATMENT PLAN. (a) ~~Upon completion of the assessment required under sub. (1) the~~ Within 30 calendar days after the date a resident is admitted to a group home, the program director shall perform a comprehensive written assessment of the resident and develop a written treatment plan. The program director shall develop ~~a written~~ the treatment plan with the participation of the placing agency; the resident; a parent if the resident is under 18 years of age; a guardian and legal custodian, if applicable and available; and the persons who will provide the required services to the resident. A completed treatment plan for each resident shall be placed in the resident's record maintained by the group home under s. DCF 57.38 and shall include all of the following:

SECTION 50. DCF 57.23 (2) (a) 13. is repealed and recreated to read:

DCF 57.23 (2) (a) 13. Consideration of additional requirements for the care of the following residents:

- a. The resident turned 18 years of age on or after August 1, 2014, but is under 21 years of age; the resident is a full-time student at a secondary school or its vocational or technical equivalent; and there is an individualized education program under s. 115.787, Stats., in effect for the person.
- b. The resident is 18 years of age or over, but under 21 years of age, and is placed under another state's placement and care responsibility under 42 USC 675 (8) (B).

SECTION 51. DCF 57.23 (2) (a) 13. (note) is repealed.

SECTION 52. DCF 57.23 (2) (a) 14. is created to read:

DCF 57.23 (2) (a) 14. Information documented on the forms required under ch. DCF 37 regarding the decision-making factors for reasonable and prudent parenting decisions for the resident under s. DCF 57.245 (4).

Note: The forms required under ch. DCF 37 are DCF-F-872A-E, *Information for Out-of-Home Care Providers, Part A* and DCF-F-872B-E, *Information for Out-of-Home Care Providers, Part B*. Both forms are available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

SECTION 53. DCF 57.23 (2) (am) is created to read:

DCF 57.23 (2) (am) Assessments of children of residents are not required.

SECTION 54. DCF 57.23 (2) (b) is repealed and recreated to read:

DCF 57.23 (2) (b) At least once every 3 months, the group home shall conduct a treatment plan review that includes a review of reasonable and prudent parenting requests and decisions made for a resident and the resident's progress toward meeting treatment plan goals. If available, the individuals who participated in the development of the resident's assessment and treatment plan shall be invited to participate in the review.

SECTION 55. DCF 57.23 (2) (c) is created to read:

DCF 57.23 (2) (c) The group home shall conduct a treatment plan review and revise the treatment plan as needed, consistent with the resident's needs, treatment plan goals, and the permanency planning goals of the placing person or agency.

SECTION 56. DCF 57.245 is created to read:

DCF 57.245 Promoting normalcy. (1) SIMILAR TO PEERS. A group home shall promote normalcy and the healthy development of a resident by supporting the resident's right to participate in extracurricular, enrichment, cultural, and social activities and have experiences that are similar to those of the resident's peers of the same age, maturity, or development.

(2) RPPS DECISION MAKER. (a) A group home shall ensure the presence on-site of at least one RPPS decision maker at all times to make decisions regarding the participation of a resident in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(b) An RPPS decision maker may be a licensee, authorized representative of the licensee, program director, group home manager, or resident care staff member. A resident care staff member may be an RPPS decision maker only if he or she has been employed for at least 3 months or 240 hours.

(c) An RPPS decision maker shall have knowledge of a resident and access to the resident's treatment plan and other resident records under s. DCF 57.38 related to the decision-making factors in sub. (4).

(d) An RPPS decision maker shall document all decisions made under this section in the communication log under s. DCF 57.215.

(e) An RPPS decision maker shall document on a form prescribed by the department any decision made under this section that requires written permission from the group home in lieu of

the resident's parent or guardian. The completed form shall be placed in the resident's record under s. DCF 57.38.

Note: DCF-F-5124-E, *Reasonable and Prudent Parent Decision Record*, is available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

(3) REASONABLE AND PRUDENT PARENT STANDARD. When an RPPS decision maker is making a decision regarding a resident's participation in activities, the RPPS decision maker shall use a decision-making standard that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the resident while at the same time encouraging the emotional and developmental growth of the resident, if the activities meet the conditions in par. (a) and (b) as follows:

(a) *Areas covered by the standard.* The resident is participating or wants to participate in extracurricular, enrichment, cultural, or social activities, including all of the following:

1. Activities related to transportation, such as obtaining a driver's license, driving, or carpooling with peers and other adults.
2. Formal or informal employment and related activities, such as opening an account in a bank or credit union.
3. Activities related to peer relationships, such as visiting with friends, staying overnight at a friend's house, or dating.
4. Activities related to personal expression, such as haircuts; hair dyeing; clothing choices; or sources of entertainment, including games and music.

(b) *Age or developmentally appropriate activities.* The resident is participating or wants to participate in activities that are suitable based on any of the following criteria:

1. Activities that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the cognitive, emotional, physical, and behavioral capacities that are typical for children of the same age or age group.
2. Activities that are suitable based on this resident's cognitive, emotional, physical, and behavioral capacities.

Note: The reasonable and prudent parent standard does not apply to a child receiving respite care services.

(4) DECISION-MAKING FACTORS. When applying the reasonable and prudent parent standard to a decision regarding a resident's participation in an extracurricular, enrichment, cultural, or social activity, an RPPS decision maker shall consider all of the following:

- (a) Child-specific factors, including all of the following:
1. The resident's treatment plan.
 2. The resident's wishes, as gathered by engaging the resident in an age-appropriate discussion about participation in the activity.
 3. The age, maturity, and development of the resident.
 4. Whether participating in the activity is in the best interest of the resident.
 5. The resident's behavioral history.

6. Court orders and other legal considerations affecting the resident, including the prohibitions in sub. (5).

7. Cultural, religious, and tribal values of the resident and the resident's family. If the resident and resident's family have different cultural, religious, or tribal values, then the placing agency, or the department if the department is the resident's guardian, is ultimately responsible for decisions concerning the resident's care.

(b) Activity-specific factors, including all of the following:

1. Potential risk factors of the situation, including whether the resident has the necessary training and safety equipment to safely participate in the activity under consideration.

2. How the activity will help the resident grow.

3. Whether participating in the activity will provide experiences that are similar to the experiences of other residents in the group home.

4. Other information regarding the parent's wishes and values, as obtained during development and review of the resident's treatment plan under s. DCF 57.23 (2) and other discussions with the resident's parent or guardian.

(c) Any other concerns regarding the safety of the resident, other residents in the group home, or the community.

(d) Information on the forms required under ch. DCF 37.

Note: The forms required under ch. DCF 37 are DCF-F-872A-E, *Information for Out-of-Home Care Providers, Part A* and DCF-F-872B-E, *Information for Out-of-Home Care Providers, Part B*. Both forms are available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

(5) PROHIBITIONS. An RPPS decision maker may not do any of the following:

(a) Permit a resident to participate in an activity that would violate a court order or any federal or state statute, rule, or regulation.

(b) Make decisions that conflict with the resident's permanency plan or family interaction plan.

(c) Consent to the resident's marriage.

(d) Authorize the resident's enlistment in the U.S. armed forces.

(e) Authorize medical, psychiatric, or surgical treatment for the resident beyond the terms of the consent for medical services authorized by the resident's parent or guardian.

(f) Represent the resident in legal actions or make other decisions of substantial legal significance.

(g) Determine which school the resident attends or make a decision concerning the resident regarding an educational right or requirement that is provided in federal or state law.

Note: For example, only a parent or guardian can make decisions about a resident's individualized educational program under s. 115.787, Stats.

(h) Require or prohibit a resident's participation in an age or developmentally appropriate activity solely for convenience or personal reasons not applicable to the decision-making factors in sub. (4).

SECTION 57. DCF 57.38 (1) (g) is repealed and recreated to read:

DCF 57.38 (1) (g) Reasonable and prudent parenting decision records required under s. DCF 57.245 (2) (e).

SECTION 58. DCF 57.38 (1) (g) (note) is repealed.

SECTION 59. DCF 57.58 (2) is amended to read:

DCF 57.58 (2) A request for a hearing shall be in writing and submitted to the department of administration's division of hearings and appeals. The request for a hearing shall be sent to the division of hearings and appeals within 10 days after receipt of the date on the notice of the department's action. ~~A request for hearing that is mailed to the division of hearings and appeals shall be considered filed with the division on the date of the postmark. A request for hearing that is hand-delivered to the division of hearings and appeals shall be considered filed on the date the request is received by the division of hearings and appeals. A request for hearing transmitted by facsimile to the division of hearings and appeals shall be considered filed on the date and time imprinted by the division's facsimile machine on the transaction report that accompanies the document. Documents received by facsimile after midnight local time shall be deemed filed on the first following business day.~~

SECTION 60. DCF 59.02 (1) is renumbered as DCF 59.02 (1m).

SECTION 61. DCF 59.02 (1), (4c), (9g), and (9r) are created to read:

DCF 59.02 (1) "Age or developmentally appropriate activities" means activities that are generally accepted as suitable for children of a given chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the cognitive, emotional, physical, and behavioral capacities that are typical for children of a given age or age group or, in the case of a specific child, activities that are suitable for the child based on the cognitive, emotional, physical, and behavioral capacities of that child.

(4c) "Family interaction plan" means a plan developed by a placing agency to promote a child's interaction with members of the child's family and includes interaction by face-to-face contact; telephone calls; letters; emails; and attendance at routine activities, such as counseling sessions, medical appointments, school events, and faith-related activities.

(6m) "Normalcy" means the ability to easily engage in healthy and age or developmentally appropriate activities that promote his or her well-being, such as participation in social, scholastic, and enrichment activities.

(9g) "Reasonable and prudent parent standard" means a standard for use in making decisions regarding a child's participation in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities that is characterized by careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values

of the child while at the same time encouraging the emotional and developmental growth of the child.

(10m) “RPPS decision maker” means an individual who has successfully completed training on the application of the reasonable and prudent parent standard and makes reasonable and prudent parenting decisions under s. DCF 59.055.

SECTION 62. DCF 59.04 (3m) and (6) (bm) are created to read:

DCF 59.04 (3m) RPPS DECISION MAKERS. A shelter care facility shall ensure that an individual specified in s. DCF 59.055 (2) (b) successfully completes training on the application of the reasonable and prudent parent standard prior to making a reasonable and prudent parenting decision.

(6) (bm) *RPPS decision makers*. A licensee shall maintain a record of each RPPS decision maker’s completion of the training required under sub. (3m).

SECTION 62. DCF 59.055 is created to read:

DCF 59.055 Promoting normalcy. (1) SIMILAR TO PEERS. A shelter care facility shall promote normalcy and the healthy development of a child placed in the shelter care facility by supporting the child’s right to participate in extracurricular, enrichment, cultural, and social activities and have experiences that are similar to those of the child’s peers of the same age, maturity, or development.

(2) RPPS DECISION MAKER. (a) A shelter care facility shall ensure the presence on-site of at least one RPPS decision maker at all times to make decisions regarding the participation of a child placed in the shelter care facility in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(b) An RPPS decision maker may be the licensee, authorized representative of the licensee, unit supervisor, or shelter care worker. A shelter care worker may only be an RPPS decision maker if he or she has been employed for at least 3 months or 240 hours.

(c) An RPPS decision maker shall have knowledge of a child and access to the child’s records in s. DCF 59.07 (1) (a) related to the decision-making factors in sub. (4).

(d) An RPPS decision maker shall document all decisions made under this section in the communication log under s. DCF 59.057.

(e) An RPPS decision maker shall document on a form prescribed by the department any decision made under this section that requires written permission from the shelter care facility in lieu of the child’s parent or guardian. The completed form shall be placed in the child’s record under s. DCF 59.07.

Note: DCF-F-5124-E, *Reasonable and Prudent Parent Decision Record*, is available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708–8916.

(3) REASONABLE AND PRUDENT PARENT STANDARD. When an RPPS decision maker is making a decision regarding participation in activities by a child placed in the shelter care facility, the RPPS decision maker shall use a decision-making standard that is characterized by

Careful and sensible parental decisions that maintain the health, safety, best interests, and cultural, religious, and tribal values of the child while at the same time encouraging the emotional and developmental growth of the child, if the activities meet the conditions in par. (a) and (b) as follows:

(a) *Areas covered by the standard.* The child is participating or wants to participate in extracurricular, enrichment, cultural, or social activities, including all of the following:

1. Activities related to transportation, such as obtaining a driver's license, driving, or carpooling with peers and other adults.
2. Formal or informal employment and related activities, such as opening an account in a bank or credit union.
3. Activities related to peer relationships, such as visiting with friends, staying overnight at a friend's house, or dating.
4. Activities related to personal expression, such as haircuts; hair dyeing; clothing choices; or sources of entertainment, including games and music.

(b) *Age or developmentally appropriate activities.* The child is participating or wants to participate in activities that are suitable based on any of the following criteria:

1. Activities that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child based on the cognitive, emotional, physical, and behavioral capacities that are typical for children of the same age or age group.
2. Activities that are suitable based on this child's cognitive, emotional, physical, and behavioral capacities.

Note: The reasonable and prudent parent standard does not apply to a child receiving respite care services.

(4) **DECISION-MAKING FACTORS.** When applying the reasonable and prudent parent standard to a decision regarding the participation by a child placed in the shelter care facility in an extracurricular, enrichment, cultural, or social activity, an RPPS decision maker shall consider all of the following:

(a) Child-specific factors, including all of the following:

1. The child's wishes, as gathered by engaging the child in an age-appropriate discussion about participation in the activity.
2. The age, maturity, and development of the child.
3. Whether participating in the activity is in the best interest of the child.
4. The child's behavioral history.
5. Court orders and other legal considerations affecting the child, including the prohibitions in sub. (5).
6. Cultural, religious, and tribal values of the child and the child's family. If the child and child's family have different cultural, religious, or tribal values, then the placing agency, or the department if the department is the child's guardian, is ultimately responsible for decisions concerning the child's care.

(b) Activity-specific factors, including all of the following:

1. Potential risk factors of the situation, including whether the child has the necessary training and safety equipment to safely participate in the activity under consideration.

2. How the activity will help the child grow.

3. Whether participating in the activity will provide experiences that are similar to the experiences of other children of the same age, maturity, or development in the shelter care facility.

4. Other information regarding the parent's wishes and values.

(c) Any other concerns regarding the safety of the child, other children in the shelter care facility, or the community.

(d) Information on the forms required under ch. DCF 37.

Note: The forms required under ch. DCF 37 are DCF-F-872A-E, *Information for Out-of-Home Care Providers, Part A* and DCF-F-872B-E, *Information for Out-of-Home Care Providers, Part B*. Both forms are available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

(5) PROHIBITIONS. An RPPS decision maker may not do any of the following:

(a) Permit a child to participate in an activity that would violate a court order or any federal or state statute, rule, or regulation.

(b) Make a decision that conflicts with the child's permanency plan or family interaction plan.

(c) Consent to the child's marriage.

(d) Authorize the child's enlistment in the U.S. armed forces.

(e) Authorize medical, psychiatric, or surgical treatment for the child beyond the terms of the consent for medical services authorized by the child's parent or guardian.

(f) Represent the child in legal actions or make other decisions of substantial legal significance.

(g) Determine which school the child attends or make decisions concerning the child regarding an educational right or requirement that is provided in federal or state law.

Note: For example, only a parent or guardian can make decisions about a child's individualized educational program under s. 115.787, Stats.

(h) Require or prohibit a child's participation in an age or developmentally appropriate activity solely for convenience or personal reasons not applicable to the decision-making factors in sub. (4).

(6) POLICIES AND PROCEDURES. The shelter care facility shall have policies and procedures on how the facility complies with the requirements of the reasonable and prudent parent standard, including all of the following:

(a) How the communication log under s. DCF 59.057 will be used to inform different shifts of shelter care workers and RPPS decision makers of reasonable and prudent parenting requests and decisions made for a child under this section.

(b) How information on a child on the forms under s. DCF 59.07 (1) (a) will be used to make reasonable and prudent parenting decisions for a child under this section.

(c) How the shelter care facility will ensure the presence on-site of at least one RPPS decision maker at all times.

(d) A process for annually reviewing the parameters and requirements of the reasonable and prudent parent standard, in conjunction with facility's corresponding policies and procedures.

Note: DCF-F-5123-E, *Reasonable and Prudent Parent Standard Review*, is an optional form that a shelter care facility may use to assist with the annual review. The form is available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

SECTION 63. DCF 59.057 is created to read:

DCF 59.057 Communication log. (1) A shelter care facility shall require each shift of shelter care workers and RPPS decision makers to use a communication log to document and communicate with other shelter care workers and RPPS decision makers about children whom they supervise in common. The communication log shall include all of the following for each shift:

(a) Each child's location and behavior.

(b) Significant incidents involving a child.

(c) Reasonable and prudent parenting requests and decisions made for children under s. DCF 59.055.

(d) Staff arrival and departure times.

(2) A shelter care facility shall have policies and procedures that ensure clear communication between shelter care workers and RPPS decision makers on one shift and shelter care workers and RPPS decision makers who supervise the same children on the next shift. The policies and procedures shall specify the types of significant incidents that are required to be documented in the communication log under sub. (1) (b).

SECTION 64. DCF 59.07 (1) (a) and (note) are repealed and recreated to read:

DCF 59.07 (1) (a) A licensee shall maintain a record for each child in the shelter care facility. The record shall contain all of the following:

1. A form prescribed by the department that is completed with specified information about the child.

2. For a child placed in the shelter care facility, all of the following:

a. The forms required under ch. DCF 37. The licensee shall share with the child's placing agency new and updated information required on the forms that the licensee becomes aware of while the child is placed in the facility.

b. Reasonable and prudent parenting decision records required under s. DCF 59.055 (2) (e).

Note: The form required under subd. 1. is DCF-F-CFS2389-E, *Shelter Care Face Sheet*.

The forms required under subd. 2. a. and ch. DCF 37 are DCF-F-872A-E, *Information for Out-of-Home Care Providers, Part A* and DCF-F-872B-E, *Information for Out-of-Home Care Providers, Part B*.

The form required under subd. 2. b. is DCF-F-5124-E, *Reasonable and Prudent Parent Decision Record*.

These forms are available in the forms section of the department website at <http://dcf.wisconsin.gov> or by writing the Division of Safety and Permanence, P.O. Box 8916, Madison, WI 53708-8916.

SECTION 65. DCF 59.08 is renumbered DCF 59.08 (1).

SECTION 66. DCF 59.08 (1) (title) is created to read:

DCF 59.08 (1) (title) GROUNDS.

SECTION 67. DCF 59.08 (2) is created to read:

DCF 59.08 (2) APPEALS. (a) Any person aggrieved by the department's decision to deny a license or to revoke a license may request a hearing on the decision under s. 227.42, Stats.

(b) The request for a hearing shall be in writing and shall be filed with the department of administration's division of hearings and appeals within 10 days after the date on the notice of the department's refusal to issue a license or the department's revocation of a license.

Note: A request for hearing may be submitted by mail to the Division of Hearings and Appeals, P.O. Box 7875, Madison, Wisconsin 53707-7875 or delivered in person to the Division at 5005 University Ave., Room 201, Madison, WI, with a copy sent to the appropriate Department of Children and Families field office listed in Appendix A.

SECTION 68. EFFECTIVE DATE. This rule shall take effect upon publication as provided in s. 227.24 (1) (c), Stats.