

ARIZONA DEPARTMENT OF CHILD SAFETY

Five-Year-Review Report

Title 21. Child Safety

Chapter 1. Department of Child Safety - Administration

Article 3. Appeals and Hearing Procedures

Article 5. Substantiation of Report Findings

1. Authorization of the rule by existing statutes

General Statutory Authority: A.R.S. § 8-453(A)(5)

Specific Statutory Authority: A.R.S. §§ 8-145, 8-166, 8-506, 8-506.01, 8-512, 8-521, 8-521.01, 8-521.02, 8-811, 8-814

2. The objective of each rule:

Article 3. Appeals and Hearing Procedures

Rule	Objective
R21-1-301. Definitions	The objective of this rule is to define the terms used in Article 3.
R21-1-302. Hearing Proceedings	The objective of this rule is to advise the public that pre-hearing and hearing proceedings are governed by the Arizona Revised Statute unless otherwise specified.
R21-1-303. Entitlement to a Hearing; Appealable and Not Appealable Actions	The objective of this rule is to advise of the opportunity for an applicant, licensee, or client to obtain a hearing to challenge an adverse action and to specify the actions that are not appealable.
R21-1-304. Computation of Time	The objective of this rule is to indicate how terms are being defined and used for the purposes of computation of time used in this Article. It clarifies how days are counted.
R21-1-305. Request for Hearing; Form;	The objective of this rule is to specify the time period and the formal and procedural requirement for filing an appeal, and the circumstances that will excuse the late filing of an appeal.

Time Limits; Pre-surreptions	
R21-1-306. Administration; Transmittal of Appeal	The objective of this rule is to establish the Department's time requirement to forward notification of appeals to OAH so that appeals can be processed without delay.
R21-1-307. Stay of Adverse Action Pending Appeal	The objective of this rule is to convey the general requirement that the Department will not carry out the adverse action until certain requirements are met and to specify under what circumstances an adverse action may be carried out before finality attaches to the adverse action notice.
R21-1-308. Hearings: Location; Notice; Time	The objective of this rule is to specify when and where hearings are scheduled after the Department has received a request to appeal and notification requirements of such hearings.
R21-1-309. Rescheduling a Hearing	The objective of this rule is to inform that an appellant may request a postponement or rescheduling of a hearing and advise of the procedures and timeframes for requesting a postponement or rescheduling of a hearing.
R21-1-310. Subpoenas	The objective of this rule is to explain when and how a party may request a subpoena.
R21-1-311. Parties' Rights	The objective of this rule is to inform parties to a hearing of their rights.
R21-1-312. Withdrawal of an Appeal	The objective of this rule is to establish the process for withdrawing a request for an appeal.
R21-1-313. Effect of the Decision	The objective of this rule is to inform that the Department's Director may opt to review and act upon the Administrative Law Judge's decision and inform when a decision is effective.
R21-1-314. Judicial Review	The objective of this rule is to indicate that parties have a right to judicial review of an adverse final administrative decision and clarify the procedures that must be followed.

Article 5. Substantiation of Report Findings

Rule	Objective
R21-1-501. Definitions	The objective of this rule is to define the terms used in Article 5.
R21-1-502. Initial Notification Letter	The objective of this rule is to advise of the information PSRT must notify an alleged perpetrator and specify the time period in which PSRT must send the notification.
R21-1-503. Time Frame to Request an Administrative Hearing	The objective of this rule is to specify the time period for requesting an administrative hearing. It informs of circumstances in which an untimely request will be considered.
R21-1-504. PSRT Review	The objective of this rule is to specify PSRT's actions upon receipt of a timely administrative hearing request and information to include when sending a hearing notice.
R21-1-505. Exceptions to Right to a Hearing	The objective of this rule is to specify the conditions in which an alleged perpetrator does not have the right to request an administrative hearing and a time period to provide pending court information.
R21-1-506. Dependency Adjudication	The objective of this rule is to specify a circumstance in which a person's name will be entered in the Central Registry.
R21-1-507. Director Review and Further Appeal after the Administrative Hearing	The objective of this rule is to inform of the timeframe for the Department's Director to review the ALJ's decision and inform the perpetrator of their right to appeal an administrative decision.
R21-1-508. Entry into the Central Registry	The objective of this rule is to specify the conditions in which a person's name and substantiation finding is or is not entered in the Central Registry.

3. **Are the rules effective in achieving their objectives?**

Yes

No

Rule	Explanation
R21-1-303(B)(2)	R21-1-303(B)(2) lists adverse actions taken by the Department that are appealable. This list is not all inclusive and should include the Extended Foster Care program (A.R.S. § 8-521.02) created in 2019 with HB1539 (54th Legislature, 1st Regular Session).
R21-1-303(C)(8)	R21-1-303(C)(8) lists actions taken by the Department that are not appealable. This list is not all inclusive and should include that a provisional license for a Child Welfare Agency is not appealable.
R21-1-305	This Section is not all inclusive and does not include the timeframes for appeals concerning DCS Comprehensive Health Plan services or benefits for non-Title XIX and Title XXI eligible individuals.

4. **Are the rules consistent with other rules and statutes?**

Yes ___

No X

Rule	Explanation
R21-1-301	This Section should include a definition for Extended Foster Care (A.R.S. § 8-521.02). In 2019 with HB1539 the 54th Legislature, 1st Regular Session created A.R.S. § 8-521.02 (Extended Foster Care).
R21-1-301(1), (9), (11)	R21-1-301(1), (9), and (11) references to the Comprehensive Medical and Dental Plan (CMDP) need to be updated to say Comprehensive Health Plan (CHP). The name of this DCS program was amended in statute (A.R.S. § 8-512) and other rules in 21 A.A.C. 1, Article 2.
R21-1-301(7)	The definition for "Appealable agency action" incorrectly refers to A.R.S. § 41-1092(3). The correct reference is A.R.S. § 41-1092(4).
R21-1-301(10)	The definition of "Child Welfare Agency" incorrectly refers to A.R.S. § 8-501(A)(1) and should correctly refer to A.R.S. § 8-501(A)(2).
R21-1-301(15)	The definition for "Foster Home" incorrectly refers to A.R.S. § 8-501(A)(5). The correct reference is A.R.S. § 8-501(A)(6). The definition also includes "Group Foster Home" which incorrectly refers to A.R.S. § 8-501 (A)(7) and should correctly refer to A.R.S. § 8-501(A)(8).
R21-1-303(B)(2)	R21-1-303(B)(2) is not consistent with statute as it does not include reference to A.R.S. § 8-521.02 which was created in 2019 with HB1539 (54th Legislature, 1st Regular Session) regarding the Department's Extended Foster Care program.

R21-1-303 (B)(2)(f)	The Department's program that provides health, dental, and behavioral services (behavioral services provided since April 1, 2021) changed the name of the program from Comprehensive Medical and Dental Program (CMDP) to Comprehensive Health Plan (CHP). This name change was made to A.R.S. § 8-512 and 21 A.A.C. 1, Article 2.
R21-1-303(C)(7)	This rule refers to A.R.S. § 8-509(D) for when issuing a provisional foster care license. The correct reference is A.R.S. § 8-509(E).
R21-1-303	This Section needs to include that this Article also applies to services provided by the Department's Extended Foster Care program (A.R.S. § 8-521.02). In 2019, with HB1539 the 54th Legislature, 1st Regular Session created A.R.S. § 8-521.02. Further analysis may be required to determine specific Sections and subsections that may need to be subsequently updated.
R21-1-305(A)(2)	This rule is not consistent with A.R.S. § 8-506(A). Statute indicates that a foster home applicant or holder of a license has 25 days after the mailing date of a notice of proposed denial, revocation or suspension whereas rule indicates a foster home license revocation has 25 days after the mailing of the adverse action notice. Rule should include denial or suspension; the Department proposes to update rule to align with statute.
R21-1-501(2)	This rule is not consistent as it contains an outdated reference to A.R.S. § 8-811(L)(1). The correct reference is A.R.S. § 8-811(N)(1). The Department proposes to amend the rule to A.R.S. § 8-811 in general or correct the reference.
R21-1-501(11)	This rule is not consistent as it contains an outdated reference to A.R.S. § 8-201(24). The correct reference is A.R.S. § 8-201(25). The Department proposes to amend the rule to refer to A.R.S. § 8-811 in general or correct the reference.
R21-1-501(16)	R21-1-501(16) incorrectly refers to A.R.S. § 8-501(30) for the definition of "Report". The correct reference is A.R.S. § 8-501(10) for "DCS Report". The Department proposes to amend the rule to A.R.S. § 8-501 in general or correct the reference.
R21-1-501(17)	R21-1-501(17)(c) incorrectly refers to subsection (11) in this rule and should correctly refer to subsection (10) in this rule. The Department proposes to amend the rule to correct the error.

5. **Are the rules enforced as written?**

Yes

No

Rule	Explanation
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<p>Multiple: As entered under paragraphs #4 of this report</p>	<p>Article 3</p> <p>The rules mentioned in #4 of this report do not align with Arizona Revised Statutes. The rules as currently written either reference the incorrect statute or do not align with an amended or created statute. The Department follows statute in these instances. The Department proposes to conduct rulemaking to update the rules to align with statute.</p> <p>Article 5</p> <p>The rules mentioned in #4 of this report do not align with Arizona Revised Statutes or incorrectly refer to a subsection of the rule. The Department follows statute and the correct subsection of the rule. The Department proposes to conduct rulemaking to update the rules to align with statute and update R21-1-501(17) to reference the correct subsection.</p>
<p>R21-1-305(B)</p>	<p>R21-1-305(B) indicates that administrations (units) within the Department must provide a form for requesting an administrative hearing. At this time, not all administrations have a form available. The Department proposes that each administration will ensure that a form is available and comply with this rule.</p>
<p>R21-1-312(A)</p>	<p>R21-1-312(A) indicates that the Department must have a form available for an appellant to withdraw an appeal. The Department has not yet created a form for this purpose. The Department will create and ensure that a form is available in order to comply with this rule.</p>
<p>R21-1-502</p>	<p>Per R21-1-502(B), the Department must send an initial notification letter to the alleged perpetrators within 14 days after the investigation was completed. Previously, the Department had a backlog of initial notification letters that needed to be sent, which resulted in the Department not complying with this rule. The backlog was ultimately remedied. However, in 2021 the Department introduced a new electronic Comprehensive Child Welfare Information System (known as GUARDIAN) which caused unforeseen delays in maintaining compliance with this rule. The Department is working on enhancements to the electronic Comprehensive Child Welfare Information System which will automate letters and facilitate in maintaining compliance with this rule.</p>

6. Are the rules clear, concise, and understandable?

Yes

No

Rule	Explanation
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<p>Multiple: As entered under paragraph #4 and #5 of this report</p>	<p>Article 3</p> <p>The rules mentioned in #4 and #5 of this report do not align with Arizona Revised Statutes. The rules as currently written either reference the incorrect statute or do not align with an amended or created statute. The Department follows statute in these instances. The Department proposes to conduct rulemaking to update the rules to align with statute.</p> <p>Article 5</p> <p>The rules mentioned in #4 of this report do not align with Arizona Revised Statutes or incorrectly refer to a subsection of the rule. The Department follows statute and the correct subsection of the rule. The Department proposes to conduct rulemaking to update the rules to align with statute and update R21-1-501(17) to reference the correct subsection.</p>
<p>R21-1-303(C)</p>	<p>R21-1-303(C) outlines actions taken by the Department that are not appealable. In order to provide clarity and include all actions taken by the Department that are not appealable, the rule should include that the issuance of a provisional license for Child Welfare Agency is not appealable.</p>
<p>R21-1-305</p>	<p>As outlined in this Section, the rules do not make a distinction for appeals and administrative hearing requests involving services and adverse actions between CHP members who are eligible for the federal Title XIX and Title XXI and CHP members who are not eligible for the federal Title XIX and Title XXI. The rules would benefit from updates to make the distinction and include information for processing these requests involving CHP members that are not eligible for Title XIX and Title XXI.</p>
<p>R21-1-314</p>	<p>This Section refers to A.R.S. § 1092.08 and should be corrected to read as A.R.S. § 41-1092.08 for clarity. The Department proposes to make this technical correction.</p>
<p>R21-1-501(9)</p>	<p>The definition of "Initial Notification Letter" says that a notice is sent "<i>... to an alleged perpetrator informing the person of the proposed finding of child abuse or neglect to be entered in the Central Registry ...</i>". The definition may benefit from adding the term "substantiated" to the definition for it to read: "<i>...to an alleged perpetrator informing the person of the proposed substantiated finding of child abuse or neglect to be entered in the Central Registry</i>" for clarity.</p>
<p>R21-1-504</p>	<p>R21-1-501(3) defines Case Record, using a capital letter for the first letter in both words. However, R21-1-504 is not consistent and uses "Case Record" and "case record". The Department proposes to make this technical correction with efforts to maintain consistency.</p>

7. **Has the agency received written criticisms of the rules within the last five years?** Yes X No

Yes, on January 31, 2023, the Department received a letter from Anne Ronan and Maria McCabe on behalf of the Arizona Center for Law in the Public Interest, which stated:

The regulations are silent as to whether adverse actions related to Extended Foster Care services are appealable. See R21-1-303 (listing which Department actions are and are not appealable). This is understandable, as this regulation was last amended in 2015, and the legislature passed the law allowing for extended foster care law in 2019. See S.B. 1539, 54th Legis., 1st Reg. Sess. (Ariz. 2019). However, R21-1-303 does provide for appeals of any decision denying, reducing, or terminating services under two related programs: the Independent Living Program and the Transitional Independent Living Program (TILP).⁷ Like EFC, these programs provide important services to older youth. However, EFC provides an eligible young person more comprehensive services than ILP or TILP—most significantly placement and support services. The loss of these supports and the risk of homelessness and other poor outcomes that can result from their termination, support heightened due process protections when a youth is at risk of benefit loss.

As stated above, the Department intends to amend the rules to address this statutory change, and make clear that adverse actions related to Extended Foster Care are also appealable.

8. **Economic, small business, and consumer impact comparison:**

The rules under Article 3 pertain to appeal and administrative hearing requests from applicants, licensees, or clients who dispute an adverse action. The rules in Article 3 are enforced by multiple Administrations/Units within the Department of Child Safety (Department): Office of Licensing and Regulation Administration (OLR); Adoption and Guardianship Subsidy Program Unit; Permanency and Youth Services Unit; and Comprehensive Health Program Unit (CHP). The purpose of the rules in Articles 3 includes notifying those affected by an adverse action taken by the Department of their rights to formally dispute such action, detailing what actions are not appealable and providing the process to follow in submitting their disputes. The rules under Article 5 pertain to actions taken when the Department of Child Safety is proposing to substantiate findings of abuse or neglect against an alleged perpetrator. The Department's Protective Services Review Team (PSRT) administers reviews and appeals related to the proposed substantiated findings of child abuse or neglect. The rules in both Articles also outline the Department's process upon receipt of a request of an appeal.

Article 3. Appeals and Hearing Procedures

The Department's organizational structure does not designate a specific unit to process and respond to appeals and hearings pertaining to Article 3. Instead, responsibilities to process appeals and hearings are incorporated with other job responsibilities within the designed Administration (program unit). Administrations impacted by these rules include: Comprehensive Health Program (CHP); Office of Licensing and Regulation (OLR); Adoption and Guardianship Subsidy Program Unit; and Permanency and Youth Services Unit (specific to the Independent Living Program and the Transitional Independent Living Program). Due to the organizational structure and units involved in processing requests for appeals and hearings, such costs are not readily quantifiable.

Independent Living Program/Transitional Independent Living Program:

During Calendar year 2022, the Independent Living Program/Transitional Independent Living Program has received 12 grievances and no administrative hearing requests. Membership in programs vary day by day. As of December 31, 2022, there were 2059 youths participating in these programs. This Administration has one staff member assigned to process appeal and hearing requests; however, responsibilities to process appeal and hearing requests are incorporated with other job duties.

Office of Licensing and Regulation (OLR):

From July 2021 to June 2022, OLR took 41 adverse actions against foster homes. In response to the adverse actions taken, OLR received 8 appeal and administrative hearing requests. In the calendar years 2021 and 2022, there were no adverse actions taken against an adoption agency nor against a child welfare agency.

Child welfare agencies are licensed by the Department to provide residential group care, emergency shelter care or provide services as a placing agency. Child welfare agencies that operate as a residential group care facility or shelter generally contract with the Department. As of February 28, 2023, 84 child welfare agencies maintain active licenses, of which 255 are residential group care facilities (group homes) and/or shelters, and seven (7) agencies hold a license as a child placing agency. Foster care providers (foster homes) are licensed by the Department to provide foster care, generally in a family setting. Foster care providers receive a set payment per child. As of June 2022, 3011 licensed foster care providers maintain active licenses. OLR's Foster Home Licensing Supervisor and Manager processes requests for appeals and hearings from foster care providers (foster homes); however, the responsibilities to process requests for appeals and administrative hearings are incorporated with their other job duties. Additionally, as of February 28, 2023, 16 adoption agencies hold a license. OLR has

assigned two staff members to process requests for appeals and hearings; however, the responsibilities to process requests for appeals and administrative hearings are incorporated with their other job duties.

Adoption Subsidy and Guardianship Subsidy:

Since the implementation of these rules, the Department has only received one appeal regarding subsidy. However, the appeal was withdrawn prior to the hearing. The subsidy unit has one Behavioral Health Specialist assigned to process appeal and hearing requests; however, this responsibility to process appeal and administrative requests are incorporated with other job duties. The Program Manager will also process appeal and hearing requests as necessary.

Comprehensive Health Plan (CHP):

Pertaining to CHP services or benefits for non-Title XIX and Title XXI DCS clients, the Department has not received any appeals or requests for administrative hearings since the implementation of these rules. Additionally, from 2015 to present time, CHP has processed 95 claim disputes from service providers, of which none were appealed. On average, CHP membership for non-Title 19 is approximately 775 DCS clients. CHP currently has one Manager assigned to process requests for appeals and hearings; however, these responsibilities are incorporated with other job duties.

Article 5. Substantiation of Report Findings

Rules govern the Department's actions for substantiating an allegation of abuse or neglect and informing an alleged perpetrator of the process to request an Administrative Hearing. There is no fee or out-of-pocket cost to an alleged perpetrator for requesting a hearing. Those affected by a proposed substantiated finding benefit from the rules as the rules inform them of their due process rights.

The Department's Protective Services Review Team consists of 10 full time employees (FTE) and one temporary employee: one Manager, one Lead Reviewer, one temporary Legal Assistant, one Administrative Assistant, and seven PSRT Regional Reviewer Specialists. This is a change from the 2018 Five-Year Review Report, in which PSRT had 11 FTE and four (4) temporary employees. The PSRT team is responsible for administering reviews and appeals related to the proposed substantiated findings of child abuse or neglect, which includes sending notifications and processing appeal and hearing requests. The Department does not anticipate allotting any new full-time employees or making changes to those currently allotted. The Department only anticipates hiring employees to fill vacancies as they arise.

In 2021 the Department introduced a new electronic Comprehensive Child Welfare Information System (known as GUARDIAN). However, this electronic Comprehensive Child Welfare Information System has encountered some difficulties and as a result the Department is unable to provide updated data at this time.

The 2018 Five-Year-Review Report reported a total of \$771,629.26 for staffing expenditures in SFY 2017. The table below displays staffing expenditures for State Fiscal Year (SFY) 2022. The total of \$812.6k includes staffing and other operating expenses. Fund sources are General Fund and Federal Funds.

PSRT EXPENDITURES FY22	
Expense Category	Amount
Salaries	\$534,249
Benefits	\$198,716
Contracted Temporary Employees	\$59,677
Other Operating	\$19,984
Total	\$812,626

9. **Has the agency received any business competitiveness analyses of the rules?** Yes ___ No X

10. **Has the agency completed the course of action indicated in the agency’s previous five-year-review report?**

The Department of Child Safety did not complete the course of action indicated in the Department's 2018 Five-Year-Review report. The concerns raised in the 2018 Five-Year-Review report were minor necessary updates to statute references. Due to other priorities and anticipated statute changes, the Department did not complete the course of action. There have been statutory changes in 2019, 2021, and 2022 that impact Article 3. Some of the statutory amendments are minor affecting references within Article 3 while others require further analysis and amendments to align rule with statute.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

The Department believes the current rules pose the minimum cost and burden on businesses, the regulated public and on the general public. The Department of Child Safety does not charge a fee to

the person requesting an appeal or hearing. The person requesting an appeal or hearing may incur a cost if the person requesting an appeal or hearing retains private counsel.

12. Are the rules more stringent than corresponding federal laws? Yes ___ No X

Federal laws 45 CFR 205.10; 45 CFR 147 et seq. apply to this rulemaking. The rules are not more stringent than corresponding federal laws.

13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:

The Department has determined that A.R.S. § 41-1037 does not apply to these rules. The rules in Articles in 3 and 5 do not require the issuance of a regulatory permit, license, or agency authorization.

14. Proposed course of action

The Department has identified a few areas that may need further analysis to determine the impact on the rules of Title 21, Chapter 1, Article 3. For example, the Department of Child Safety has determined that Article 3 is missing appeal and hearing information specific to Comprehensive Health Plan (CHP) members who are not eligible to receive services through the federal program in Title XIX or Title XXI. The Department needs to analyze and determine whether to include information specific to requesting an appeal or hearing pertaining to services provided to CHP members who are not eligible for services provided under the federal Title XIX or Title XXI under in Title 21, Chapter 1, Article 3 or to remove all information in relation to CHP and move appeal and hearing rules to the CHP rules found in Title 21, Chapter 1, Article 2. The Department also needs to analyze and determine if adding rules to include the Extended Foster Care program affect other areas of the Article in addition to those mentioned above. Furthermore, the Department needs to analyze HB2599 that passed in 2022, 55th Legislature, Second Regular Session and determine the impacts of these statutory amendments on Article 3. If determined that the rules in Article 3 are impacted by this House Bill, the Department proposes to update the rules in Article 3 to align with statute. And lastly, the Department has identified that a few of the incorrect references to statute are due to statutory amendments. The Department needs to determine if corrections to rules will either refer to the general statute throughout this Article or correct the references and provide the current specific statute.

The Department proposes to complete the identified analysis pending, request approval to conduct rulemaking to Title 21, Chapter 1, Article 3 from the Governor's office, and submit the Notice of Final Rulemaking to the Governor's Regulatory Review Council by July 2024.

The Department proposes to request approval to conduct rulemaking to Title 21, Chapter 1, Article 5 from the Governor's office and submit the Notice of Final Rulemaking to the Governor's Regulatory Review Council by March 2024.

ARIZONA DEPARTMENT OF CHILD SAFETY

Five-Year-Review Report

Title 21. Child Safety

Chapter 4. Department of Child Safety - Response to Reports

Article 1. Investigations

August 2023

1. Authorization of the rule by existing statutes

General Statutory Authority: A.R.S. § 8-453(A)(5)

Specific Statutory Authority: A.R.S. §§ 8-454 and 8-471

2. The objective of each rule:

Article 1. Investigations

Rule	Objective
R21-4-101. Definitions	The objective of this rule is to promote and facilitate uniform understanding of terminology used by the Department.
R21-4-102. Response Times	The objective of this rule is to clarify that the Department will respond to a DCS report as required under Title 21, Chapter 3, Article 2.
R21-4-103. Methods of Investigation	The objective of this rule is to explain the Department's procedures for investigating DCS reports of child maltreatment.
R21-4-104. Coordination with Law Enforcement	The objective of this rule is to explain the Department's coordination with Law Enforcement.
R21-4-105. Investigation Findings; Required Documentation	The objective of this rule is to explain that the Department must render a finding on an investigation; document the finding; and provide notice as appropriate.
R21-4-106. Ongoing Services; Case Closure	The objective of this rule is to explain the Department's policy to close a case when determined that a child is not in need of services.
R21-4-107. Procedures for	The objective of this rule is to explain the Department's procedures used to determine whether a child can safely remain in the home or needs to be removed from the home.

Temporary Custody	
R21-4-108. Quality Assurance	The objective of this rule is to inform that it is the Department's policy to conduct reviews to verify that investigation procedures were conducted properly.

3. **Are the rules effective in achieving their objectives?** Yes X No ___

4. **Are the rules consistent with other rules and statutes?** Yes ___ No X

Rule	Explanation
R21-4-107	A.R.S. § 8-821 was amended in 2018 which includes changes to the process the Department must follow in taking temporary custody of a child. The Department's policy and procedures have been updated to align with the statute. The Department proposes to update the rules in this Chapter.

5. **Are the rules enforced as written?** Yes ___ No X

Rule	Explanation
R21-4-107	Please refer to #4.

6. **Are the rules clear, concise, and understandable?** Yes ___ No X

Rule	Explanation
R21-4-103	R21-4-103 (B) is not clear, concise, and understandable as it needs to include a reference to subsection (D). R21-4-103 (H): Use of the term "report" is not clear, concise, and understandable in this rule as this term may be confused with "DCS Report" as defined in Title 21, Article 3. R21-4-103(J): The Department proposes to amend language to clarify that the Department will coordinate the transfer of DCS reports when the alleged abuse or neglect is not within the Department's jurisdiction. This Section should also provide clearer language that explains that the DCS Investigator will call the Intake Hotline upon discovery of evidence of other incidents of abuse or neglect. The Department proposes to amend this Section to provide language that is clearer, and more concise and understandable.

R21-4-105	R21-4-105(A): In efforts for this subsection to be more concise, the Department proposes to remove "After completing an investigation" from the beginning of subsection R21-4-105(A).
R21-4-105	R21-4-105 (C) uses the acronym PSRT; the Department proposes to spell out this acronym for clarity purposes.
R21-4-107	As mentioned in #4, the Department proposes to add rules that align with statute. Additionally, for the purpose of clarity and understanding, as well as expectations, this Section should include rules and information pertaining to parental consent and dependency petitions. The Department proposes to amend this Section to make the rules more clear, concise, and understandable.

7. **Has the agency received written criticisms of the rules within the last five years?** Yes ___ No X

8. **Economic, small business, and consumer impact comparison:**

The rules under Chapter 4 pertain to Department's policy and procedures when investigating allegations of abuse and neglect of children. The Department of Child Safety is the state agency authorized by Arizona Revised Statutes to protect children by investigating allegations of abuse and neglect, to promote the well-being of the child in a permanent home, and to coordinate services to strengthen the family and prevent, intervene and treat abuse and neglect of children.

Cost/Benefit Analysis

Cost bearers and beneficiaries from these rules include: children that are the subject of an allegation of abuse or neglect, persons investigated on suspicion of perpetrating abuse or neglect of a child, and the Department. As in the 2018 report, the Department does not anticipate allotting any new full-time employees or making changes to the number currently allotted. The Department only anticipates hiring employees to fill vacancies as they arise. There are no political subdivisions affected by these rules. The benefit of these rules is that the rules provide information as to the Department's policies and procedures when investigating allegations of child abuse and neglect.

Rules in this Chapter are used by the Department to govern the policy and procedures when conducting investigations of child abuse and neglect. There are no fees charged in association with the rules in this Chapter. Between January 1, 2023 and June 30, 2023 there were 22,161 calls made to the DCS Centralized Intake Hotline that met the statutory requirements for a report of abuse or neglect whereas between October 1, 2017 and March 31, 2018, there were 24,093 calls. Of these calls, the Department assigned 21,837 and 23,670 respectively as DCS reports of child abuse and neglect for investigation by Department Investigators.

The Department has multiple offices and units statewide tasked with the responsibility of investigating DCS reports of child abuse and neglect. The Department has five (5) regions: Maricopa East Region, Maricopa West Region, Northeast Region, Northwest Region, and South Region. There are 36 field offices statewide staffed with DCS investigators and/or Office of Child Welfare Investigations (OCWI) investigators and their respective supervisors. Additionally, the Department has five (5) OCWI units co-located in either advocacy centers or with law enforcement.

Tasks associated with investigations are the same as listed in the 2018 Five-Year-Review Report.

The 2018 Five-Year-Review Report reported that in Fiscal Year 2017, \$120,825,128.00¹ was expended for the functions in this Article. In Fiscal Year 2023, \$10,091,052 was expended for the functions pertaining to this Article. This continues to be a combination of federal and state funding.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes ___ No X

10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?**

The Department of Child Safety did not complete the course of action indicated in the agency's five-year-report of 2018.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

The Department believes that the current rules pose the minimum cost and burden to the persons regulated by these rules. Any costs related to the implementation of these rules are associated with the Department's responsibility to investigate allegations of abuse and neglect of children as authorized by Arizona Revised Statutes. It is the Department's belief that any costs associated with the rules are offset by the greater benefit of ensuring the safety and protection of Arizona children.

12. **Are the rules more stringent than corresponding federal laws?** Yes ___ No X

42 U.S.C. 5106a. The rules are not more stringent than federal laws.

¹ The amount reflected in the 2018 Five-Year-Review Report was calculated incorrectly and the correct amount for FY2017 was \$7,704,969 for the functions pertaining to this Chapter (21 A.A.C. 4). This report reflects the accurate expended amount in FY2023 for the functions of investigating allegations of abuse and neglect (21 A.A.C. 4).

13. For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:

The Department has determined that A.R.S. § 41-1037 does not apply to these rules because the rules in this Chapter do not require the issuance of a regulatory permit, license or agency authorization.

14. Proposed course of action

The Department of Child Safety has reviewed the current rules and proposes to amend the rules to address the issues listed in this report. The Department proposes to submit a Notice of Final Rulemaking to the Council by May 2024.

ARIZONA DEPARTMENT OF CHILD SAFETY

Five-Year-Review Report

Title 21. Child Safety

Chapter 5. Permanency and Support Services

Article 2. Independent Living and Transitional Independent Living Programs

October 2023

1. Authorization of the rule by existing statutes

General Statutory Authority: A.R.S. § 8-453(A)(5)

Specific Statutory Authority: A.R.S. §§ 8-521, 8-453(A)(9)(b), 8-521.01, 8-453(A)(18)

2. The objective of each rule:

Rule	Objective
R21-5-201. Definitions	The objective of this rule is to provide uniform understanding of terminology used by the Department.
R21-5-202. Provision of Services	The objective of this rule is to inform of the availability of Independent Living services, Independent Living Subsidy, and Transitional Independent Living Program provided by the Department to eligible youth.
R21-5-203. Denial of Services	The objective of this rule is to explain that services may be denied if eligibility requirements are not met.
R21-5-204. Eligibility	The objective of this rule is to establish the eligibility requirements for Independent Living Services, Independent Living Subsidy, and the Transitional Independent Living Program.
R21-5-205. Services for Foster Youth 18 through 20 Years of Age in Out-of-home Care	The objective of this rule is to provide information and criteria on services the Department may provide to youth ages 18 through 20 years.
R21-5-206. Transitional Independent Living Program	The objective of this rule is to describe the Transitional Independent Living Program including the assistance the Department may provide and the information the eligible youth is required to provide.
R21-5-207. Re- entry Into Out-of- home Care	The objective of this rule is to state the Department's process upon receipt of a request from a youth to re-enter out-of-home care with the Department.

R21-5-208. Termination of Services	The objective of this rule is to establish the Department's process when terminating or denying services and supports under the Independent Living Services, Transitional Independent Living Program, or Independent Living Subsidy services.
R21-5-209. Grievance Process	The objective of this rule is to provide information on the grievance process.

3. **Are the rules effective in achieving their objectives?** Yes X No
4. **Are the rules consistent with other rules and statutes?** Yes X No
5. **Are the rules enforced as written?** Yes X No
6. **Are the rules clear, concise, and understandable?** Yes X No
7. **Has the agency received written criticisms of the rules within the last five years?** Yes No X

8. **Economic, small business, and consumer impact comparison:**

The rules under this Chapter and Article pertain to services and supports the Department provides children who are or were placed in out-of-home care and have reached an age where the Department provides important services and support to assist foster youth transition to adulthood. The purpose of these rules is to provide information about the services available, eligibility criteria, and outlines the process for when a service is being denied or terminated.

Services and support provided to the youth includes individual assistance in obtaining or removing barriers to getting a high school diploma, enrollment in post-secondary education, career exploration, vocational training, job placement and retention, training and opportunities to practice daily living skills. Additionally, for eligible youth ages 18 through 20 years old, the Department provides financial and housing assistance, counseling, employment readiness and obtainment, education and other support services to complement their own efforts to achieve self-sufficiency. The Department does not charge a fee to eligible youth for their participation in these services. The Department contracts for transitional living support services.

Though the Department has some specialized units supporting these youth and young adults, it is not a statewide organizational structure; therefore, costs associated with providing these services and supports is not readily quantifiable. The Department does not anticipate allotting any new full-time employees or making changes to those currently allotted. There are no political subdivisions affected by these rules.

Youth participation in these programs vary. On September 21, 2023, there were 1,467 youth participating in these programs. In comparing this to the 2018 Five-Year-Review Report it indicated that on December 31, 2017, there were 1,701 youths participating. Program services are funded through a combination of federal and state dollars. Federal dollars are awarded through the Chafee Program. \$4,585,780 was appropriated for the state of Arizona for FFY 2023, where as in FFY2018 \$5,138,520 was appropriated. One of the services offered under this program is the Independent Living Subsidy or Maintenance. This subsidy is a monthly stipend to assist eligible youth with room and board costs while they pursue education and employment goals and is provided in lieu of any other foster care maintenance payment. In July 2022 to June 2023, the actual cost to provide Independent Living Subsidy was \$9,442,370. The 2018 Five-Year-Review Report indicated that from June 2017 to July 2018, the actual cost to provide Independent Living Subsidy was \$3,744,470.00. In FY 2023, the average monthly number of youth receiving the Independent Living Subsidy was 665 whereas in FY 2018 the average monthly number of youth receiving the Independent Living Subsidy was 499. The monthly subsidy stipend for FY 2023 was \$1200 in comparison to the average monthly subsidy stipend for FY 2018 was \$625. Funds to provide the Independent Living Subsidy are appropriated annually and are a combination of federal and state funding.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes ____ No X

10. **Has the agency completed the course of action indicated in the agency’s previous five-year-review report?**
No course of action was indicated in the 2018 Five-Year-Review Report.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**
The Department of Child Safety believes that the current rules pose the least burden and costs to the regulated person by these rules.

12. **Are the rules more stringent than corresponding federal laws?** Yes ____ No X
42 U.S.C. §§ 675 and 677. The rules are not more stringent than corresponding federal laws.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**
The Department has determined that A.R.S. § 41-1037 does not apply to these rules. These rules do not require the issuance of a regulatory permit, license or agency authorization.

14. Proposed course of action

The Department has reviewed the current rules and does not plan any rulemaking activity for these rules.

ARIZONA DEPARTMENT OF CHILD SAFETY

Five-Year-Review Report

Title 21. Child Safety

Chapter 3. Department of Child Safety - Centralized Intake Hotline

Article 1. Definitions

Article 2. Receipt and Screening of Communications

December 2023

1. Authorization of the rule by existing statutes

General Statutory Authority: A.R.S. § 8-453(A)(5)

Specific Statutory Authority: A.R.S. §§ 8-454 and 8-455

2. The objective of each rule:

Article 1. Definitions

Rule	Objective
R21-3-101. Definitions	The objective of this rule is to promote and facilitate uniform understanding of terminology used by the Department.

Article 2. Receipt and Screening of Communications

Rule	Objective
R21-3-201. Receipt of Information; Centralized Intake Hotline	The objective of this rule is to inform of the Department's responsibility for having a Hotline available for the community to report, anonymously if requested, suspected child abuse or neglect. Additionally, it informs that it is the Department's responsibility to determine if the information gathered meets DCS report criteria.
R21-3-202. Preliminary Screening	The objective of this rule is to list allegations that on their own do not meet the criteria for a DCS report.
R21-3-203. Disposition of Communication	The objective of this rule is to differentiate between a DCS report and a non-report and provide information on what the Department does with non-report information received by the Hotline.
R21-3-204. Quality Assurance	The objective of this rule is to advise of the Department's responsibility to review non-report communications, received by the Hotline, on a weekly basis.

3. Are the rules effective in achieving their objectives?

Yes X No ___

4. **Are the rules consistent with other rules and statutes?** Yes X No __
5. **Are the rules enforced as written?** Yes X No __
6. **Are the rules clear, concise, and understandable?** Yes X No __
7. **Has the agency received written criticisms of the rules within the last five years?** Yes __ No X
8. **Economic, small business, and consumer impact comparison:**

General

The rules under Chapter 3 pertain to procedures regarding receipt, screening, and follow-up of calls received at the Department's Centralized Intake Hotline, at times referred to as the Child Abuse Hotline. The purpose of the rules is to communicate the Department's responsibility to maintain a Centralized Intake Hotline for the public to report suspicions of child abuse and neglect. The rules further provide information on how the information received is processed.

Persons directly impacted by these rules are children that are the subject of an allegation of abuse or neglect, persons investigated on suspicion of perpetrating abuse or neglect of a child, and the Department.

The Department as well as the public benefit from the rules in Chapter 3 as the rules inform that there is a Hotline available where they may report child abuse and neglect. The rules further inform the public on how the Department addresses information and concerns reported to the Hotline.

Cost bearers and beneficiaries from these rules include the following: children that are the subject of an allegation of abuse or neglect, persons investigated on suspicion of perpetrating abuse or neglect of a child, the Department, and the public. The Department does not anticipate allotting any new full-time employees or making changes to those currently allotted. The Department only anticipates hiring employees to fill vacancies as they arise. There are no political subdivisions affected by these rules. The rules provide information on the DCS Centralized Intake Hotline and how information received is processed. The Department's Centralized Intake Hotline is allocated 111 full-time positions to operate a functioning and efficient Hotline to support all calls received, 24 hours a day, seven (7) days a week. The Hotline staff currently consists of the following: one (1) Program Administrator, two (2) Program Managers, one (1) Operations Manager, seven (7) support staff, eight (8) Quality Assurance Specialists, thirteen (13) Supervisors, seventy-nine (79) DCS Specialists. Due to departmental reorganization, Hotline positions decreased from 113, as reported in the 2018 Five-Year-Review Report, to the current 111 positions. When

necessary, the Department deploys vacant DCS Specialists from other units in order to ensure the resources are available to meet the needs of the public.

In fiscal year that covered dates from July 2021 to June 2022 there were 152,856 incoming communications to the Centralized Intake Hotline: 85,018 calls were concerning child abuse or neglect; 45,590 calls (53.7%) met the statutory requirements of abuse or neglect. The average time for the Hotline to answer a call was 4 minutes and 23 seconds. Additionally, 12.24% of the calls to the Hotline were abandoned before a Specialist answered the call. (Monthly Operational Outcomes Report October 2023) In comparison to the 2018 Five-Year-Review Report which provided the following information for a six (6) month period: *Between October 1, 2017 and March 31, 2018, there were 80,004 incoming communications to the Centralized Intake Hotline: 52,865 calls did not meet the criteria of child abuse or neglect; 24,093 calls met the statutory requirements of abuse or neglect. Of the 24,093 calls, 423 calls fell within the jurisdiction of military or tribal governments and were referred to those jurisdictions for response. Of the 80,004 calls, there were 3,046 calls that were abandoned before the Specialist answered the call. (DCS, Semi-annual report Child Welfare Reporting Requirements for the period of October 1, 2017 through March 31, 2018) The average time for Hotline staff to answer a call in June 2018 was thirty-two seconds. (Monthly Operational Outcomes Report, June 2018)*

The Department continues to perform weekly quality assurance reviews of these communications to ensure accurate assessments and proper classification of communications as reported in the 2018 Five-Year-Review Report.

The Department expended \$8,063,413 in Fiscal Year 2022 for the functions of the Department's Centralized Intake Hotline. The ongoing estimated budget for the Department's Centralized Intake Hotline is \$9.4 million. This is a combination of federal and state funding. The 2018 Five-Year-Review Report stated that the Department expended \$6,873,295.00 in Fiscal Year 2017 for the functions in this Article.

9. **Has the agency received any business competitiveness analyses of the rules?** Yes ___ No X

10. **Has the agency completed the course of action indicated in the agency's previous five-year-review report?**

The Department of Child Safety has completed the course of action indicated in the previous five-year-review report. The Notice of Final Rulemaking for Title 21, Chapter 3, Article 2 was submitted to the Governor's Regulatory Review Council on May 9, 2023 and included amendments identified in the previous five-year-review report. Council approved rulemaking to Title 21, Chapter 3, Article 2 on July 5, 2023. The amendments became effective on September 10, 2023.

11. **A determination that the probable benefits of the rule outweigh within this state the probable costs of the rule, and the rule imposes the least burden and costs to regulated persons by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective:**

The Department of Child Safety believes that the current rules pose the least burden and costs to the regulated persons by this rule. The Department does not charge a fee for this public service.

12. **Are the rules more stringent than corresponding federal laws?** Yes ___ No X

42 U.S.C. 5106a.

13. **For rules adopted after July 29, 2010 that require the issuance of a regulatory permit, license, or agency authorization, whether the rules are in compliance with the general permit requirements of A.R.S. § 41-1037 or explain why the agency believes an exception applies:**

The Department has determined that A.R.S. § 41-1037 does not apply to these rules. The rules in Title 21, Chapter 3, Articles 1 and 2 do not require the issuance of a regulatory permit, license, or agency authorization.

14. **Proposed course of action**

The Department of Child Safety does not propose a course of action.