

10A NCAC 70M .0102 DEFINITIONS

(a) For the purpose of the rules in this Subchapter, 42 USC 673, 45 CFR 1356.41, and the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions of 1996, P.L. 104-188, are applicable to both the State and public adoption agencies and are hereby incorporated by reference including any subsequent amendments and editions. These documents may be accessed at www.gpo.gov or www.congress.gov at no charge.

(b) The following definitions shall apply to the rules in this Subchapter:

- (1) "Adoption assistance agreement" means a signed written agreement that is developed by the Department ("North Carolina Adoption Assistance Agreement" Form DSS-5013, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that is binding upon the public adoption agency and the prospective adoptive parents of a minor child and, at a minimum, the agreement shall:
 - (A) specify payments that meet the requirements in 42 USC 673(a)(3), and specifies the nature and amount of any payments, services, and assistance to be provided under the agreement;
 - (B) stipulates that the agreement shall remain in effect regardless of the state where the adoptive parents are residents of at any given time;
 - (C) require each adoptive parent to inform the public adoption agency of any circumstances that would make the parent ineligible for the payments or eligible for a different amount;
 - (D) if applicable, require the adoptive parents to provide receipt of vendor payments; and
 - (E) contain provisions for the protection of the interests of the child in cases where the adoptive parents and child move to another state while the agreement is in effect.
- (2) "Applicable child" means a child who meets the requirements in 42 USC 673(e).
- (3) "Child with special needs" or "children with special needs" means a child who meets the requirements in 42 USC 673(c). The public adoption agency, or the North Carolina Department of Health and Human Services for the Special Needs Adoptions Incentive Fund assistance, shall make the specified determinations for the State in 42 USC 673(c). A child shall not be returned to the home of the child's parent if there is a court order terminating parental rights, a relinquishment to a public or private child-placing agency, a consent for adoption by the parent, a finding from the court in an adoption proceeding that a parent's consent is not required, or verification of the death of a parent. For a child to meet the requirement in 42 USC 673(c)(2)(B)(ii), the child must have a letter from the Social Security Administration that approves the child for Social Security Insurance benefits. For purposes of 42 USC 673(c)(1)(B) and 42 USC 673(c)(2)(B)(i), the child shall present one or more of the following specific factors or conditions:
 - (A) six years of age or older;
 - (B) two years of age or older and a member of a minority race or ethnic group;
 - (C) a member of a sibling group of three or more children who will all be placed in the same adoptive home;
 - (D) a member of a sibling group of two children who will be placed in the same adoptive home and the child's sibling meets one of the factors or conditions in Parts (A), (B), (E), (F), (G), or (H) of this Paragraph;
 - (E) a medically diagnosed disability that substantially limits one or more major life activities, requires professional treatment, requires assistance in self-care, or requires the purchase of special equipment;
 - (F) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as having a psychiatric condition that impairs the child's mental, intellectual, or social functioning, and for which the child requires professional services;
 - (G) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as having a behavioral or emotional disorder characterized by inappropriate behavior that deviates substantially from behavior appropriate to the child's age or significantly interferes with child's intellectual, social, and personal functioning;
 - (H) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as being intellectually or developmentally disabled; or
 - (I) at risk, as opined by a medical professional, who is qualified through licensing or credentialing for one of the factors or conditions in Parts (E) through (H) of the definition in this Paragraph due to:
 - (i) prenatal exposure to toxins;

- (ii) a history of abuse or serious neglect; or
 - (iii) genetic history.
- (4) "Department" means the North Carolina Department of Health and Human Services.
- (5) "Nonrecurring adoption expense" means the same as "nonrecurring adoption expenses" found in 42 USC 673(a)(6)(A).
- (6) "Public adoption agency" means any county department of social services, consolidated human services, or regional department of social services in North Carolina that is authorized by law to place children for adoption or that provides adoption services.
- (7) "Supplemental Agreement" means a signed written agreement that is developed by the Department ("North Carolina Special Children Adoption Incentive Fund Supplemental Adoption Assistance Agreement" Form DSS-5212, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that is binding upon the public adoption agency and the prospective adoptive parents of a minor child and at a minimum:
 - (A) specifies the nature and amount of any Special Children's Adoption Incentive Fund payment; and
 - (B) includes an acknowledgement by the prospective adoptive parents that the payments are not an entitlement and are limited to available funds in the Special Children's Adoption Incentive Fund.

History Note: Authority G.S. 143B-153(2)(a); 108A-49; 42 U.S.C. 673;
Eff. August 1, 2021.