BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL BY THE COMMISSIONER OF FAMILY AND COMMUNITY SERVICES

In the Matter of	)	
	)	
U. G.	)	OAH No. 26-0229-CHC
	)	OAH No. 26-0289-CHC

DECISION

I. Introduction

Foster parent U. G. appeals the augmented-rate assessments of her foster children, J. and E., conducted by the Department of Family and Community Services ("DFCS"), Office of Children's Services ("OCS"). OCS pays foster parents a daily stipend to compensate them for the time and expense of caring for children in OCS custody.[1] When the needs of the children require more than a basic level of care, foster parents can receive additional "augmented rates." These rates are usually reassessed every six months. In early 2026, OCS determined that J. and E. had improved such that they needed a lower level of care, thus significantly reducing the corresponding augmented rate allotted to Ms. G. for their care.

The record shows that the February and March 2026 augmented-rate evaluations of J. and E. found improvements that did not exist. When a foster parent applies for augmented rates, by regulation OCS must assess the needs of child based on a specific evaluation form. When scoring the needs of J. and E., however, the agency used an internally crafted "review form" that resulted in lowered behavioral scoring and thus reduced augmented care compensation for the foster parent. It also applied review criteria not adequately described to foster parents in advance of their interviews or as described on any of the available instructions to foster parents.

OCS does not have the discretion to adopt a new evaluation form that differs from the one specifically mandated by its own regulations. Nor may it base its evaluations on criteria not publicly disclosed to foster parents that run counter to form instructions. Based on their actual and continuing difficulties of care, Ms. G. established by the preponderance of the evidence that J. and E. qualify for a higher augmented rate than assessed by OCS. OCS's refusal to grant those rates is REVERSED.

II. Factual Background

[1] Agency Ex. 2, OCS Child Protective Service Policy Manual, Section 6.2.2.2, Policy B ("Foster care payments are considered reimbursements for expenses incurred by foster parents caring for the child.").

U. G., an OCS licensed foster parent, lives in Anchorage, Alaska. She has four children of her own, three of whom she adopted, and over the years has cared for over 50 Alaska foster children.[2] Her current household includes her young adult son and three foster children, J. and twins E. and N.. J. has lived with Ms. G. since 2022. The twins were placed with Ms. G. in June 2025.[3]

J. was born in 2016 and is 10 years old. It is reported that his father physically assaulted J.'s mother during the pregnancy and that his mother consumed alcohol and smoked tobacco and cannabis during her pregnancy.[4] J. presents with multiple diagnoses, including Fetal Alcohol Spectrum Disorder (FASD), a moderate intellectual developmental disorder, optic nerve hypoplasia, and congenital malformation of endocrine glands, including an undersized pituitary gland.[5] Particularly owing to the FASD and the pituitary gland deficiency, a 2021 neuropsychological assessment found J. to be exhibiting "developmental delays, immaturity, language delays, intense anger outbursts, physical aggression, delays in fine and gross motor skills, poor balance, physical restlessness, and difficulty sustaining his attention to tasks."[6] A June 2025 neuropsychological evaluation noted additional incidents of emotional dysregulation and oppositional behavior. Reaffirming and expanding the 2021 assessment, it also diagnosed him with an unspecified neurodevelopmental disorder, FASD, Attention Deficit and Hyperactivity Disorder, ("ADHD"), depression, and a separate developmental coordination concern.[7]

E. was born in 2019 and is 7 years old. He and his twin brother were homeless in City A and subjected to significant deprivation and mental abuse before they were taken into protective OCS custody. Before coming into Ms. G.'s care, the boys had 11 prior foster care placements. Professional evaluations admitted into the record diagnose E. with ADHD and other conduct disorders,[8] below average scores in body coordination, and a Social Emotional Learning score that puts him in a 1% ranking compared to his peers. One evaluator noted, "[s]cores in this range typically indicate significant problems with overall social-emotional" functioning.[9]

---

2 Ms. G. Testimony.
3 *Id.*
4 Respondent Ex. G.
5 *Id.*
6 Respondent Ex. G at 1.
7 *Id.*
8 Respondent Ex. DD.
9 Respondent Ex. II.

In July 2025, E. was evaluated by OCS as being a child with the most acute needs and, therefore, qualifying for the highest Level 3 augmented rates.[10] J.'s history is less clear. However, since 2025, Ms. G. has challenged J.'s augmented-rate score both formally and informally. After their most recent assessments, conducted in February and March 2026, both children scored lower, Level 2 augmented rates.[11] Ms. G. objected, and this consolidated appeal followed. An in-person evidentiary hearing was conducted on May 14, 2026. Ms. G. participated and represented herself. Assistant Attorney General Brooke Keating represented OCS. Ms. Talia Robinson and Ms. Jennifer Parkin, both in OCS's centralized Augmented Rate Unit, testified on behalf of OCS.[12].

III. Legal Authorities

A. Foster Care Compensation Rates

1. The basic stipend

Pursuant to 7 Alaska Administrative Code ("AAC") 53.030(a), OCS is required to "pay a base rate for foster care for a child placed by the department."[13] The base rate is intended to compensate foster parents for the "care and supervision of children in foster care."[14] Included in that calculation is the estimated costs for:

> Shelter, including utilities and use of household furnishings and equipment, daily supervision, including those activities that a parent would normally carry out to assure protection, emotional support, and care of the child.[15]

Depending on the age of the child, this stipend can vary between $34.01 and $40.73 per day under a rate schedule that became effective July 1, 2024.[16] As a foster parent, Ms. G. receives a stipend to maintain the children placed in her home, including J. and E..

2. The augmented rate

---

10 Respondents Ex. E (J., conducted December 1, 2022), AA (E., conducted August 4, 2025).

11 Agency Exs. 4 (J.) and 5 (E.).

12 Ms. Parkin was not available on the day of the evidentiary hearing. She testified by affidavit. Agency Ex. 12.

13 7 AAC 53.030(a). As noted in *Heitz v. State, Dep't of Health & Soc. Servs*., 215 P.3d 302, 306 (Alaska 2009) (foster parents have "a protected property interest" in foster care reimbursement payments).

14 7 AAC 53.030(b).

15 Agency Ex. 3 at 5 (AR OCS00039).

16 *See* Foster Care Reimbursement and (Difficulty of Care) Augmented Rates, accessible at:

For children who have physical disabilities, ongoing behavioral issues, or complex medical conditions, foster parents may request an "augmented rate" under 7 AAC 53.060. The augmented rate is intended to compensate the foster parent for the extra time and expense of caring for and supervising these children.[17] The regulation specifies three levels of augmented rates. Foster parents who qualify for a Level 1 augmented rate receive an additional $19.50 on top of the regular daily stipend. Children at this level have "identified special needs that require more intensive care and supervision from the foster parent."[18] Those qualifying for a Level 2 augmented rate receive an additional $39.00 per day. These children "have identified moderate problems that require specialized training by the care provider and a structured environment and their needs are more than can be provided through basic or specialized care."[19] Foster parents with children qualifying for a Level 3 rate receive an additional $78.00 per day on top of the base rate.[20] Children in this category have "identified severe problems that require specialized training by the care provider and a structured environment and their needs are more than can be provided through the basic or specialized care."[21]

3. The augmented rate assessment

Under 7 AAC 53.060, OCS must perform an augmented rate assessment upon the request of a foster parent.[22] If an augmented rate is approved, it must be reviewed through a new assessment performed at least every six months.[23] Reassessment at regular intervals is built into the augmented rate process because "children in care are expected to improve with the provision of foster care services."[24] That is, a stable home is expected to and should make a difference to children experiencing trauma after separation from an original family home that may not have

---

17 7 AAC 53.060 (augmented rates are available for a child whose "needs are at a level that exceeds the basic care provided in a licensed foster home"). The base rate is also intended to cover food, clothing, personal and grooming items, games, toys, and books, general recreation, transportation, over-the-counter medicines and first aid supplies common for children, babysitting costs, and allowances.

18 Agency Ex. 3 at 5 (AR OCS00039).

19 *Id.*

20 *Supra* note 16. Foster parents caring for a medically fragile child, who would likely qualify for a Medicaid waiver, may alternatively be eligible for an intensive augmented rate under 7 AAC 53.061. These rates are sometimes referred to as Level 4 rates and are generally applicable when a child might also qualify for an Intellectual and Developmental Disabilities ("IDD") Medicaid waiver.

21 Agency Ex. 3 at 5 (AR OCS00039).

22 7 AAC 53.060(b).

23 7 AAC 53.060(d)

24 *Id.*

met their basic needs. The regulation goes on to provide the following guidance on how these assessments and reassessments are to be conducted:

> [F]or children in the custody of the department who are receiving services from the departmental office that oversees children's services under AS 47.10, that office shall conduct an assessment that determines the child's needs in the foster care placement and the role and level of responsibility of the foster parent in meeting the child's existing needs; the office shall conduct the assessment using the *Augmented Care Worksheet* in the Office of Children's Services *Child Protection Services (CPS) Policy Manual, Chapter 6. Administration, Section 6.2.2.2.A. Difficulty of Care Augmented Rates*, revised as of July 1, 2022, and adopted by reference. . . [25]

The current text of this regulation was proposed in 2022 and adopted with an effective date of February 22, 2023.[26] When this regulatory language was filed with the Office of the Lieutenant Governor for formal adoption, it was submitted with two documents that figure prominently in this appeal: (1) the specific version of Section 6.2.2.2.A of the CPS Manual that was incorporated by reference into the regulation; and (2) an "Assessment of Difficulty of Care" worksheet that is set out within that section of the CPS Manual.[27] Any doubt that this form itself was incorporated by reference into 7 AAC 53.060(f)(1) is dispelled by text at the bottom of its pages, which provides: "*OCS.Difficulty-of-Care Augmented Rates. Adopted by Reference. Augmented Care Worksheet.01.27.2022*."[28] Additionally, for purposes of public participation in regulations review, this form was provided to the public – along with the proposed regulatory text – in the notice of proposed rulemaking issued on July 20, 2022.[29]

This regulatory text, in combination with the incorporated documents, created procedures for conducting augmented rate assessments. Accordingly, they cannot be modified without a corresponding amendment regulation, which itself requires compliance with the Alaska Administrative Procedure Act (the "APA").[30]

---

[25] 7 AAC 53.060(f)(1) (italics in original).

[26] *See* Alaska Administrative Code Register 245, effective February 22, 2023 (available online at https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=209632).

[27] *Id.* (emphasis added).

[28] *Id.*

[29] *See* Notice of Proposed Changes on Child Foster Care Augmented Rates for Difficulty-of-Care (available online at https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=207471). Notably, in this notice the form was identified as a document that would be adopted by reference in the proposed regulation.

[30] *See* AS 44.62.180 - .290.

It is against this backdrop that OCS changed its "original assessment form" scoresheet without a corresponding regulatory change. Both the "original assessment form" and the "revised assessment form" are compared next.

a. The original assessment form

The Assessment of Difficulty of Care Form incorporated into 7 AAC 53.060 – which will be referred to below as the "Original Assessment Form" – sets out a matrix of ten different "problem areas" listed on the left side of the form, as shown in this excerpt:

Problem Area	Low	Moderate	High
DJJ/Law Enforcement Involvement	Misdemeanors Status Offenses	Property crimes two or more Curfew Violations Chronic Runaway Stealing from foster parents on weekly basis	Felony Offense Fire setting Sexual Perpetrator (Multiple victims or Predatory)
Self-Regulation	Short attention span Over 4 years old - enuresis several times a week	Poor frustration tolerance Over 4 years old - enuresis daily	Behavioral response limits/prohibits day to day functioning

In addition to DJJ/Law Enforcement Involvement and Self-Regulation problem areas in the excerpt, for a combined total of ten, the Original Assessment form identifies eight additional problem areas to be evaluated: (1) Developmental Delay/Intellectual Disability; (2) Education Issues; (3) Impulsive/Oppositional Behavior; (4) Therapeutic Intervention/Mental Health; (5) Aggression/Victimization; (6) Medical/Physical; (7) Self Harm/Suicide; and (8) Substance Abuse.

On the horizontal axis of the score sheet, conduct that supports the problem area is ranked, from left to right, as "low" to "moderate," to "high." As partially shown above, examples of behavior that qualify for a low, moderate, or severe score are included in the Original Assessment Form for each of the 10 problem areas. In addition to the form, Policy 6.2.2.2.(A), which is also incorporated into regulation, includes its own table. It does not completely match

the Original Assessment Form but is also useful in determining severity levels for the 10 problem areas.[31]

A child is scored based on "critical needs/behaviors that are present in the last six months" prior to the evaluation.[32] A key portion of the scoring sheet incorporated into OCS regulation is not just the problem areas, but *how to score* the problem areas to determine whether a foster child should receive an augmented rate. The Original Assessment Form provides:

Determination of Level of Care

Basic:	Level 1:	Level 2:	Level 3:
Does not meet criteria of other rates based off determination	Three or more boxes checked in the low column	1 or more boxes checked in the low column and two or more in the moderate column	1 or more boxes checked in the high column AND three or more in moderate
	Two boxes check in the moderate column	Two boxes or more check in the high column	2 or more boxes checked in moderate, and 2 or more boxes checked in high
	One box checked in the high column	Four or more boxes checked in the moderate column	Four or more boxes checked in the high column
		One box checked in the high column and two in moderate column	

As such, key to receiving any higher augmented rate than the base rate is the number of boxes checked.

b. The revised assessment form

The Original Assessment Form became effective as regulation on February 22, 2023. For reasons not clearly explained, at some point in late 2024 or early 2025, OCS unilaterally revised the form without changing its regulations (identified here as the Revised Assessment Form).[33] The Revised Assessment Form uses the same 10 problem areas and provides the same examples of qualifying conduct. However, the method of scoring changed from a "boxes checked" score to

---

[31] Agency Ex. 3 at 4-5.

[32] The form contains this descriptor just above the table:

> The Values Listed below were identified through the assessment process as critical needs/behaviors that are present in the last six months. The frequency and severity of problems and the role and level of responsibility of the resource parent in meeting the child's existing needs determines the augmented foster care rate.

Id.

[33] In *In Re TT*, OAH No. 25-1997-CHC (Commissioner of Family & Community Services, 2026), OCS's representative in this case explained that "the Original Assessment Form" was created by an outside 'nurse consultant' and was perceived as being inadequate because it was 'being used in a way that was check the box.'" Final Decision at 8.

assigning a "point value" score. A Level 1, 2, or 3 augmented rate would then depend on the number of points tallied.[34]

AUGMENTED RATE SCORING TOOL

Augmentation Score	Augmentation Level
0 to 4 points	Basic
5 to 9 points	Level 1
10 to 13 points	Level 2
14 + points	Level 3

In many cases, conduct which would qualify for a higher augmented rate under the Original Assessment Form would receive a lower rate under the Revised Assessment Form.[35]

c. Other scoring decisions not included in regulation

In addition to the scoring change, OCS unilaterally adopted several additional internal policies impacting augmented rate assessments, The first of which is a policy that could artificially lower a child's score. Specifically, concerning behaviors exhibited by a child, such as needing redirection, could only be scored in one problem area, even if it was a qualifying behavior for more than one problem area. Second, beginning September 2025, OCS also started using another document to guide augmented rate calculations called the "Difficulty of Care Augmented Rate Problem Area Definitions." The OCS augmented rate team referred to this document when it conducted foster parent interviews.[36] OCS did not share these definitions with foster parents in advance of their interviews. Accordingly, foster parents were in the dark about what behavior or case history to disclose for each specific problem area. They also might not disclose certain conduct or historical information about the child, thinking it was not relevant, when it was. Last, OCS changed the individuals conducting the augmented rate assessments from the child's OCS case worker and supervisor to a specialized augmented rate team.[37] This

---

34 *Id.*

35 For example, under the Original Assessment Form, a foster parent would qualify for a Level 3 augmented rate if there was one box checked in the "high" category, and three or more boxes checked in the "moderate" category. Under the Revised Form that same foster parent would be awarded only nine points or a Level 1 augmented rate. OCS attempted to adapt for this by permitting points for each kind of qualifying conduct identified in box, but this change was also not adopted into regulation. Ms. Talia Robinson testimony.

36 Agency Ex. 8 (noted in the header as finalized on September 19, 2025).

37 Ms. Robinson testimony.

led to assessments being conducted by a rate team that lacked familiarity with cases and related insights posed by assigned case workers.

IV. Discussion

A. DFCS Final Decisions

Ms. G. carries the burden of proof to challenge both J.'s and E.'s reduced augmented rates.[38] However, as a threshold matter, it is important to note that policies and procedures used by OCS to set augmented rates have recently been addressed in two June 2026 DFCS Final Decisions.

In *In Re T.T.*, DFCS ruled that OCS had no permissible justification for using the Revised Assessment Form and concluded the Original Assessment Form provided the only appropriate scoring tool.[39] This decision also raised the concern of "awarding points in just one problem are for a given behavior," but did not have to rely on this objection to award the foster parent a higher augmented rate.[40]

This was a factor, however, in DFCS's subsequent reversal in *In Re L.D.*[41] There, DFCS again faulted its office for using the Revised Assessment Form. It further awarded a higher augmented rate to the foster parent, because of "OCS's current policy of awarding points in only one problem area for behaviors that give rise to issues in multiple problem areas," which DFCS concluded was "inconsistent with the Original Assessment Form and finds no support in the text of 7 AAC 53.060." [42] Last, in reference to the "Difficulty of Care Augmented Rate Problem Area Definitions" OCS utilizes to conduct foster-parent interviews, DFCS concluded that using "secretive standards that are not disclosed to foster parents for fear that they might skew the information they provide is contrary to Alaska law."[43]

It is against this legal backdrop that we turn to the issues raised in this appeal.

---

38 2 AAC 64.290(e).

39 *In Re T.T.*, OAH No. 25-1997, Final Decision at 9-10 (Commissioner of Family & Community Services, 2026) ("stating, "while OCS may well have legitimate concerns regarding the "check box" format of the Original Assessment Form, it cannot act on those concerns by unilaterally adopting new forms and procedures that disregard the requirements of 7 AAC 53.060(f).

40 *Id. at 10*. This was because OCS had not been aware of another reason the foster children qualified for a higher score (three or more medical appointments a week).

41 *In Re L.D.*, OAH No. 25-1615-CHC (Commissioner of Family & Community Services, 2026).

42 *Id*., Final Decision at 21.

43 *Id.*

B. J.'s February 2026 Augmented Rate Assessment

Ms. G. challenges J.'s February 2026 rate assessment, which scored J. as a Level 2 under both the Original Assessment Form and the Revised Assessment Form as shown below.[44]

AUGMENTED RATE ASSESSMENT

Problem Area	Low Severity (1 point)	Medium Severity (2 points)	High Severity (3 points)
Aggression/Victimization		Superficial injury caused to others Cruelty to animals	
Developmental Delay/Intellectual Disability			
DJJ/Law Enforcement Involvement			
Education Issues			
Impulsive/Oppositional Behavior		Multiple behavior difficulties when prompted or redirected	
Medical/Physical	1 medical appointment per week		
Self-harm/Suicide			
Self-Regulation	Short attention span Over 4 years old- enuresis several times a week		
Substance Use			
Therapeutic Intervention/Mental Health			Therapeutic Intervention required 3 times a week or more

Ms. G. asserts that J.'s behaviors are improperly categorized and scored by OCS.

To qualify for a Level 3 Augmented Rate, using the Original Assessment Form, a preponderance of the evidence must show that J. (1) should have received one more moderate score in addition to the high severity score he held for therapeutic interventions; or (2) or more high severity score that did not replace his two medium severity scores.

[44] Agency Ex. 5 (also Respondent Ex. F) (11 points using the Revised Assessment Form, Level 2 qualification on the Original Assessment Form for one box checked in the high column and two or more boxes checked in the medium column).

The most obvious category of inappropriate scoring for J. is in the "self-regulation" problem area. OCS scored J. with a low-severity score despite proven extensive difficulties. Ms. G. credibly testified that J.'s ability to self-regulate deserved more than a low score. She explained that she can rarely go out in public with him due to his unpredictable overreactions. For example, if triggered in a parking lot, J. will run, likely into harm's way. She further explained that J. has an inability to negotiate resolution to simple issues and hyper fixates to the point of meltdown. An unfortunate result of this is that both Ms. G. and J. self-isolate or leave planned events when J. cannot cope.[45] This conduct occurs at a minimum three to four times a week.[46]

OCS further requires the foster parent to identify how the foster's child problem areas impact the foster parent, primarily financially, but also with extensive time commitments that impact a foster parent's ability to self-care and care for others.[47] Ms. G. further credibly testified that the time it takes to care for J. has impacted many aspects of her life. For example, her career plan as a substance abuse counselor is on pause, because she cannot leave J. to complete the necessary volunteer hours for certification. She also lacks the time and energy to pursue a career as an Indian Child Welfare Act (ICWA) worker for a tribal health organization or tribal court. She also cannot adequately perform the tasks required of her as her elderly mother's power of attorney. Her mother also cannot visit her home, because of the problems that might arise with any of Ms. G.'s foster children.[48] OCS did not contest these impacts as being insufficient. The primary issue was whether J.'s conduct was sufficiently captured.

The conduct Ms. G. describes here could qualify for either a "medium" severity score for "poor frustration tolerance," [49] or a high severity score for "behavioral responses limiting or prohibiting day-to-day functioning." [50] By affidavit, Ms. Parkin testified that OCS had already caught this conduct in the impulsive, oppositional behavior "problem area," which is why she did

---

45 Ms. G. Testimony.

46 *Id.*

47 Ms. Robinson Testimony.

48 *Id.*

49 Agency Ex. 8 at OCS00064. The "problem area definitions," define "poor frustration tolerance as "an inability to regulate one's emotions when confronted with adversity, loss of control, or blocked goals." Examples include tantrums, inflexibility, intolerance, taking fewer negative emotions or stressful events to trigger more crying, and explosive temper.

50 *Id.* at OCS00066. The "problem area definitions," define this as a dysregulation that "prohibits or limits daily functioning because the unregulated emotional response overwhelms most situations and the child needs assistance in regulating," which the foster parent provides.

not score it in the self-regulation problem area.[51] However, as described in *In Re L.D.*, this is an improper limitation without a change to its worksheet and regulation.[52]

In summary, whether scored as "moderate" or "high" severity, the corrected "self-regulation" problem area qualifies J. for a Level 3 Augmented Rate for his February 5, 2026, evaluation.[53] Review of any additional scoring error will not change the result or contribute to an even higher augmented rate for J..[54]

C. E.'s March 2026 Augmented Rate Assessment

The March 2026 augmented rate assessment scored E. as qualifying for a Level 2 augmented rate under both the Original Assessment Form and the Revised Assessment Form as shown below:[55]

[51] Agency Ex. 12.

[52] *Supra* notes 39-41.

[53] OCS has credibly explained why identical conduct should not support more than one problem area. However, no part of its regulation as proposed to the public adequately explained this scoring anomaly to the public that participated in this regulation's review. As such, they were deprived of the opportunity to publicly comment on that impact. It is for this reason, that OCS's thoughtful and perhaps merited approach is disregarded here. The fix here is regulatory; not through agency discretion and continual policy finetuning.

[54] Ms. G. testified that J.'s FASD should qualify him for a Level 4 augmented rate, which is conducted by another section of OCS and is not part of this appeal.

[55] Agency Ex. 4 (13 points using the Revised Assessment Form, Level 2 qualification on the Original Assessment Form for one box checked in the high column and two or more boxes checked in the medium column).

AUGMENTED RATE ASSESSMENT

Problem Area	Low Severity (1 point)	Medium Severity (2 points)	High Severity (3 points)
Aggression/Victimization		Superficial injury caused to others Cruelty to animals Property Destruction	Sexually reactive behaviors with services (No DJJ/Law Enf.)
Developmental Delay/Intellectual Disability			
DJJ/Law Enforcement Involvement			
Education Issues		Weekly Interv-Unable to maintain apprp behav in school (IEP/504 plan)	
Impulsive/Oppositional Behavior			
Medical/Physical	1 medical appointment per week		
Self-harm/Suicide			
Self-Regulation	Over 4 years old- enuresis several times a week		
Substance Use			
Therapeutic Intervention/Mental Health			

Ms. G. presented testimony and evidence calling into question E.'s scoring in the "self-regulation," "developmental delays," and "impulsive oppositional" problem areas. According to Ms. G., and in communication with the boys' school principal, E. and his brother are described as the "two most needy children" at their school. Ms. G. testified regarding E.'s PTSD, likely stemming from early childhood abuse, homelessness, and significant food insecurity. E. is triggered nearly daily due to this prior history, causing him to fight, hit, and destroy property, at

times by spreading bodily fluids and excrement on walls.[56] E. also craves attention and is only satisfied when he receives it, whether for positive or negative reasons.[57] For example, in April 2026, Ms. G. planned to go to church, leaving E. briefly in her eldest son's care. Seeing her leave caused E. to panic. He became extremely agitated, pulled away from her son's grasp, and tried to jump over a stairwell to get to her. Ms. G. called the OCS helpline and was advised to take E. to the emergency room to be assessed as a possible danger to himself.[58] Following the evaluation, E. was allowed to return home, with a referral to Behavioral Health Center A.

E. cannot be trusted outside an adult's sight or sound. Ms. G. will not permit the twin boys to be on a separate floor from her while she is home. She also sleeps with her door open so she can hear any disruptive disturbances. E. also exhibits improper boundaries and cannot bathe with his twin brother because of inappropriate touching.[59] Ms. G. was not aware that OCS has a "problem-area definition" handout it uses to score children that it did not share with her in advance of her interview.[60] She was never asked questions about development delays during her interview. If she had been, she said she would have shared occupational therapy notes that stated J. was functioning at a toddler level, when he was already seven. Had this occurred, she asserts that the "developmental delay" problem area would have scored much higher.[61] Furthermore, Ms. G. stated she would have discussed the substantiated abuse E. sustained in his parents' care, which seemingly directly contributes to the aggression he regularly exhibits. She also would have shared more information about how E.'s mental health therapists are currently attempting to find ways to address his impulsive/oppositional behaviors and "hyper fixation" through medications and therapy.[62]

OCS asserted that E. was correctly scored, regardless of the assessment form used.[63] However, as with J., a key issue regarding E.'s scoring is OCS limiting concerning behavior to a single problem area. For example, an evaluation of OCS's scoring assessment of E. can begin

---

56 Ms. G. Testimony.

57 *Id.*

58 *Id.*; Respondent Ex. HH.

59 Consistent with and as documented in Ms. Parkin's activity notes, E. exposed his penis to adult men in a swimming pool locker room. He also showed his penis to a four-year-old child and pulled his penis out at a playground because his brother dared him. Agency Ex. 6.

60 Ms. G. Testimony.

61 Respondent Ex. H.

62 Ms. G. Testimony. Although post interview, to address the stairwell incident, Ms. G. might have also requested an updated assessment and an evaluation on self-harm/suicide prevention area.

63 Agency Ex. 12.

with the "the self-regulation" category. Ms. Parkin assigned him a Level 1 score for short attention span. However, as Ms. G. credibly testified, J.'s self-regulation issues go well beyond a short-attention span, to include significant difficulty falling asleep, calming down or following instructions. He yells, cries, destroys, hits and cannot self-soothe. All of this demonstrates at minimum a "poor frustration tolerance" that would qualify E. for another "medium severity" problem area score.[64] With the frequency at which it occurs, the conduct would also very likely support a "high severity" score.[65]

In addition to the flawed "self-regulation" scoring, OCS's uncodified policy of limiting qualifying conduct to only one problem area also restricted E.'s level placement. For example, many of the behaviors described above would also have resulted in his scoring in additional scoring in "impulsive/oppositional behavior" category. The overwhelming conduct Ms. G. described of E., including regularly hitting, screaming and kicking, is oppositional.[66] Whether this conduct supports either a "moderate" severity or a "high" severity score does not change the result.[67] The evidence supports a higher augmented rate.

In summary, for the March 2026 evaluation conducted for E., either combination of two more moderate problem area scores or one moderate and one high severity problem area score returns E. to a Level 3 augmented rate.

V. Conclusion

OCS cannot unilaterally elect to forgo the use of the Original Assessment Form, incorporated by reference into regulation, with an independently crafted review form. Nor may it engage in scoring practices that include limiting behaviors of concern to a single "problem area" in the assessment.[68] Nor may OCS purposefully deprive foster parents of public documents, such as the "problem area definitions."[69] The Alaska augmented rate determination

---

64 This is also aligned with OCS's problem area definition document. To establish poor frustration tolerance, a foster parent must be able to prove the child suffers from frustration, anger, tantrums, and inflexibility many times a week. Agency Ex. 8 at OCS00064. Ms. G. has done so.

65 Per the problem-area definition document, the child's dysregulation must prohibit or limit daily functioning. *Id.* at 26. Due to Ms. G.'s constant vigilance and need to redirect, this is likely a daily occurrence for young E..

66 And, as Ms. Robinson testified, most likely linked to his documented FASD.

67 *Id.* at OCS00055. The "problem area definitions," for the impulsive/oppositional behavior area permit a medium score if a child has multiple behavior difficulties when a foster parent tries to redirect them. For Level 3 those behavior difficulties must report 6 or more times a week. Hearing from Ms. G., the conduct requiring correction most likely needs correction more than 6 times a week.

68 *In Re L.D.*, Final Decision at 17.

69 *Id.*, Final Decision at 22.

as established by law is to be implemented as directed in regulation and not obfuscated, even if for valid reasons, by informal rulemaking and undisclosed scoring criteria.

Accordingly, OCS's determination that J. and E. did not qualify for a Level 3 augmented rate in the assessments performed in February and March 2026 are REVERSED.

Dated: July 2, 2026.

SIGNED
Joan M. Wilson
Chief Administrative Law Judge

Adoption By Final Decisionmaker Under AS 44.64.070(e)

The undersigned, by delegation from the Commission or Family and Community Services, under the authority of AS 44.64.060(e)(1), adopts this decision as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 12th day of August, 2026.

By: SIGNED
Name: Chrissy Vogeley
Title: Senior Policy Advisor

[This document has been modified to conform to the technical standards for publication. Names have been changed to protect privacy.]