

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 83001(g)(1)Specific Purpose:

This section is amended to add a definition for "Gender Expression."

Factual Basis:

This change is necessary to add a definition for "Gender Expression," where one did not previously exist ensuring that Small Family Homes regulations are consistent with accepted terminology most notably found in *Transgender and Gender Nonconforming Children in California Foster Care*, Family Builders, National Center for Lesbian Rights, Center for the Study of Social Policy (2016): <http://www.cssp.org/reform/child-welfare/get-real/what-we-do/body/TGNC-Children-in-CA-Foster-Care-Feb-2016.pdf>. This change was made based on information received from stakeholder workgroups. It is an important distinction to understand the difference between the new terminologies being added by this regulation package as it pertains to providing culturally competent care to children in out-of-home care. Also, this change is in accordance with Welfare & Institutions (W&I) Code section 16001.9 (a)(1): "To live in a safe, healthy, and comfortable home where he or she is treated with respect."

Section 83001(g)(2)Specific Purpose:

This section is amended to add a definition for "Gender Identity."

Factual Basis:

This change is necessary to add a definition for "Gender Identity," where one did not previously exist ensuring that Small Family Homes regulations are consistent with accepted terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. *CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care*. Washington, DC: Child Welfare League of America, 2006. Print. This change implements Senate Bill (SB) 731, Statutes of 2015, which amended W&I Code section 16001.9(a) by adding Subsection (24) affording all foster children the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare documents. The SB 731 added Health & Safety (H&S) Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. Adding this definition supports the new statutory personal right. Also, this change is in accordance with

W&I Code section 16001.9 (a)(1): "To live in a safe, healthy, and comfortable home where he or she is treated with respect."

Section 83001(s)(1)

Specific Purpose:

This section is amended to add a definition for "Sexual Orientation."

Factual Basis:

This section is adopted to implement Assembly Bill (AB) 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to afford the personal right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual and transgender (LGBT) youth in out-of-home care. This change is necessary to add a definition for "Sexual Orientation" where one did not previously exist, ensuring that these regulations are consistent with accepted terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care. Washington, DC: Child Welfare League of America, 2006. Print.

Sections 83001(s)(2) and (3) are renumbered from (s)(1) and (s)(2)

Specific Purpose/Factual Basis:

Sections (s)(1) and (s)(2) are renumbered [amended numbering (s)(2) through (s)(3)] due to the adoption of a new (s)(1).

Section 83001(t)(1)

Specific Purpose:

This section is amended to add a definition for "Transgender."

Factual Basis:

This section is amended to implement SB 731, Statutes of 2015, which amended W&I Code section 16001.9(a) by adding Subsection (24), which affords all foster children the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare records. The SB 731 added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. This section also implements AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to afford the personal right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This change is necessary to add a definition for "Transgender" where one did not previously exist to help provide foster parents with the most current terminology most notably found in Wilber, Shannan, Caitlin

Ryan, and Jody Marksamer. CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care. Washington, DC: Child Welfare League of America, 2006. Print.

Section 83064(d)

Specific Purpose:

This section is amended to remove a reference to Section 83072(c)(29) and to replace it with a reference to W&I section 16001.9(a)(26).

Factual Basis:

This section is necessary to remove a reference to Section 83072(c)(29), as this section is being repealed by this regulations package. The W&I Code section 16001.9(a)(26) is consistent with former Section 83072(c)(29).

Section 83064(g)

Specific Purpose:

This section is adopted to include the licensee duty of ensuring that all individuals who provide care and supervision to children in a facility have received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care.

Factual Basis:

This section is necessary to implement AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to add the personal right for all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This regulation will ensure that licensees of Small Family Homes require anyone who provides care and supervision of a child in a facility to receive this instruction, thereby, making these regulations comport with statute.

Section 83072(c)

Specific Purpose:

This section is amended to reference Subsection (d).

Factual Basis:

In accordance with Administrative Procedure Act (APA), Government Code (GC) section 11349, Subdivision (c), these changes are necessary to add a reference to Subsection (d) so that it is clear that a caregiver must provide a copy of the rights, specified in Subsection (d), to a child or a child's representative.

Section 83072(d)

Specific Purpose:

This section is added to reference W&I Code section 16001.9.

Factual Basis:

These changes are made to reference the personal rights specified in statute, W&I Code section 16001.9(a), and additional personal rights accorded by CDSS for purposes of clarity. The paragraphs that duplicated statute in W&I section 16001.9(a) are repealed. Additionally, it is necessary to clarify that children who are privately placed in a Group Home should be afforded only the rights in W&I Code section 16001.9(a) that apply and, therefore, would not be afforded the rights that apply only to a child placed in foster care.

Sections 83072(d)(1), (d)(1)(A) through (C) are renumbered from 83072(c)(1), (c)(1)(A) through (C)

Specific Purpose/Factual Basis

These sections are renumbered from 83072(c)(1), (c)(1)(A) through (C) to 83072(d)(1), (d)(1)(A) through (C) due to the addition of 83072(d).

Sections 83072(d)(2), (d)(2)(A) through (C) are renumbered from 83072(c)(4), (c)(12) and (c)(12)(A)

Specific Purpose:

These sections are amended to create consistency among all Children's Residential Facility regulations and to add a reference to W&I Code section 16001.9(a)(23). Subsections (c)(4), (c)(12) and (c)(12)(A) are repealed as the intent of those subsections is rephrased and addressed in (d)(2)(A) through (C).

Factual Basis:

It is necessary to amend this section to clarify that all children must be provided with, and allowed to possess, items such as clothing and other personal care items that are consistent with each child's protected rights in W&I Code section 16001.9(a)(23). These changes will ensure that children in care are protected from discrimination as this relates to the clothes they choose to wear and will ensure a consistent application of the personal rights afforded to all children in out-of-home care.

Sections 83072(c)(4), (c)(12) and (c)(12)(A)

Specific Purpose/Factual Basis:

These subsections are repealed as the intent of these sections are rephrased and addressed in Section 83072(d)(2).

Sections 83072(c)(5), (c)(9), (c)(11), (c)(13) through (16), (c)(20) through (27) and (c)(29)

Specific Purpose/Factual Basis:

These subsections are duplicated in statute, W&I Code section 16001.9, and are repealed for purposes of clarity. This subsection is renumbered accordingly.

Section 83072(d)(5) is renumbered from 83072(c)(7)

Specific Purpose/Factual Basis:

This section is renumbered from 83072(c)(7) to 83072(d)(5) due to the repeal of many surrounding sections.

Section 83072(d)(6) is renumbered from 83072(c)(8)

Specific Purpose/Factual Basis:

This section is renumbered from 83072(c)(8) to 83072(d)(6) due to the repeal of many surrounding sections.

Section 83072(d)(7) is renumbered from 83072(c)(10)

Specific Purpose:

This section is renumbered from 83072(c)(10) to 83072(d)(7) to create consistency among all Children's Residential Facility regulations [Previous numbering (c)(10)].

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all foster children this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations

Sections 83072(d)(8) through (d)(10) are renumbered from 83072(c)(17) through (c)(19)

Specific Purpose/Factual Basis:

These sections are renumbered from 83072(c)(17) through (c)(19) to 83072(d)(8) through (d)(10) due to the repeal of many surrounding sections.

Section 83072(d)(11) is renumbered from 83072(c)(28)

Specific Purpose/Factual Basis:

This section is renumbered from 83072(c)(28) to 83072(d)(11) due to the repeal of many surrounding sections.

Handbook Section 83072(d)(11)

Specific Purpose/Factual Basis:

This handbook section is added to include an example for clarity as well as W&I Code section 16001.9 in its entirety.

Section 83072(e) is relettered from 83072(d)

Specific Purpose:

This section is amended to add a reference to W&I Code section 16001.9(b). Section 83072(d) is relettered to 83072(e) due to the addition of new language in Section 83072(d).

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care it is necessary to amend this section to be more consistent with personal rights sections in all Children's Residential Facility regulations. Additionally, this section is amended for clarity and consistency with this section of regulations to add "licensee" where previously "foster care provider" was used.

Handbook Section 83072(e)

Specific Purpose/Factual Basis:

This handbook section is added to include W&I Code section 16001.9(b) in its entirety.

Sections 83087(b)(2), (b)(2)(A) and (b)(2)(B)

Specific Purpose:

These sections are amended for clarity to create one section in the regulations that would contain the allowable circumstances for children of different sexes to share a bedroom.

Factual Basis:

Allowing youths of different biological sexes with the same gender identity the option of sharing a bedroom, while considering the health and safety of both youths, will ensure that children in out-of-home care "Live in a safe, healthy, and comfortable home where he or she is treated with respect," in accordance with W&I Code section 16001.9(a)(1).

The SB 731, Statutes of 2015, changed statute in W&I Code section 16001.9(a) by adding Subsection (24), which affords all foster children the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare records. Additionally, this bill added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. Adding this section to regulations will ensure that Small Family Home regulations are consistent with the new statutory personal right. This subsection is re-formatted because of the addition of the circumstance described in (B).

Sections 83087(e)

Specific Purpose:

This subsection is added to create the requirement that in each bedroom sharing arrangement, a licensee shall document that the arrangement ensures the health, safety and compatibility of the children, including a discussion regarding each child's sexual orientation and gender identity.

Factual Basis:

Children in out-of-home care have the right to "Live in a safe, healthy, and comfortable home where he or she is treated with respect," in accordance with W&I Code section 16001.9(a)(1). In order to ensure this right it is necessary for the licensee to consider the compatibility of each child as well as their health and safety when considering a bedroom sharing arrangement. Requiring the licensee to document this in each child's record will facilitate enforcement of this provision.

Section 84001(g)(1)

Specific Purpose:

This section is amended to add a definition for "Gender Expression." Subsection (g)(1) is renumbered [amended numbering (g)(2)] for the purpose of clarity.

Factual Basis:

This change is necessary to add a definition for "Gender Expression," where one did not previously exist ensuring that Group Homes regulations are consistent with accepted terminology most notably found in *Transgender and Gender Nonconforming Children in California Foster Care*, Family Builders, National Center for Lesbian Rights, Center for the Study of Social Policy (2016): <http://www.cssp.org/reform/child-welfare/get-real/what-we-do/body/TGNC-Children-in-CA-Foster-Care-Feb-2016.pdf>. This change was made based on information received from stakeholder workgroups. It is an important distinction to understand the difference between the new terminologies being added by this regulation package as it pertains to providing culturally competent care to children in out-of-home care. Also, this change is in accordance with W&I Code section 16001.9 (a)(1): "To live in a safe, healthy, and comfortable home where he or she is treated with respect."

Section 84001(g)(2)

Specific Purpose:

This section is adopted to add a definition for "Gender Identity."

Factual Basis:

This change is necessary to add a definition for "Gender Identity" where one did not previously exist ensuring that Group Homes regulations are consistent with accepted terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. *CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care*. Washington, DC: Child Welfare League of America, 2006. Print. This change implements SB 731, Statutes of 2015, which amended W&I Code section 16001.9(a) by adding Subsection (24) affording all foster children the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare records. The SB 731 added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. Adding this definition supports the new statutory personal right. Also, this change is in accordance with W&I Code section 16001.9(a)(1): "To live in a safe, healthy, and comfortable home where he or she is treated with respect."

Sections 84001(g)(3) and (g)(4) are renumbered from 84001(g)(1) and (g)(2)

Specific Purpose/Factual Basis:

Sections 84001(g)(3) and (g)(4) are renumbered from 84001(g)(1) and (g)(2) for the purpose of clarity.

New Section 84001(s)(2)

Specific Purpose:

This section is amended to add a definition for "Sexual Orientation."

Factual Basis:

This section is adopted to implement AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to afford the personal right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This change is necessary to add a definition for "Sexual Orientation" where one did not previously exist, ensuring that these regulations are consistent with accepted terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. *CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care*. Washington, DC: Child Welfare League of America, 2006. Print.

Sections 84001(s)(3) through (s)(5) are renumbered from 84001(s)(2) through (s)(4)

Specific Purpose/Factual Basis:

Section 84001(s)(3) through (s)(5) are renumbered from 84001(s)(2) through (s)(4) for the purpose of clarity.

Section 84001(t)(1)

Specific Purpose:

This section is amended to add a definition for "Transgender."

Factual Basis:

This section is amended to implement SB 731, Statutes of 2015, which amended W&I Code section 16001.9(a) by adding Subsection (24), which affords all foster children the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare records. The SB 731 added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. This section also implements AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to afford the personal right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This change is necessary to add a definition for "Transgender" where one did not previously exist to help provide foster parents with the most current terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care. Washington, DC: Child Welfare League of America, 2006. Print.

Section 84065(i)(3)(T)

Specific Purpose:

This section is to include the licensee duty of ensuring that all individuals who provide care and supervision to children in a facility have received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care.

Factual Basis:

This regulation is necessary to implement AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) affording the right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This regulation will ensure that Group Home regulations comport with statute.

Section 84065(j)(3)(O)

Specific Purpose/Factual Basis:

In accordance with clarity and consistency standards in the APA, GC section 11349, Subdivisions (c) and (d), this section is amended to reflect the addition of Section 84065(i)(3)(T) to the list of training topics and the relettering thereof.

Section 84072(c)

Specific Purpose:

This section is amended to reference Subsection (d).

Factual Basis:

In accordance with APA, GC section 11349, Subdivision (c), these changes are made to add a reference to Subsection (d) so that it is clear that a caregiver must provide a copy of the rights, specified in Subdivision (d), to a child or a child's representative.

Section 84072(d)

Specific Purpose:

This section is added to reference W&I Code section 16001.9.

Factual Basis:

These changes are made to reference the personal rights specified in W&I Code section 16001.9(a) and additional personal rights accorded by CDSS for purposes of clarity. The paragraphs that duplicated statute in W&I Code section 16001.9(a) are repealed. Additionally, it is necessary to clarify that children who are privately placed in a Group Home should be afforded only the rights in W&I Code section 16001.9(a) that apply and, therefore, would not be afforded the rights that apply only to a child placed in foster care.

Sections 84072 (c)(10), (c)(14), (c)(16) through (c)(21), (c)(25) through (c)(32) and (c)(34)

Specific Purpose/Factual Basis:

These subsections are repealed as they are duplicative of statute in W&I Code section 16001.9(a).

Section 84072(d)(6) is renumbered from 84072(c)(6)

Specific Purpose/Factual Basis:

This section is renumbered from 84072(c)(6) to 84072(d)(6) as a result of the addition of 84072(d).

Sections 84072(d)(6) and (d)(6)(A) through (d)(6)(C)

Specific Purpose:

These sections are amended to create consistency among all Children's Residential Facility regulations and to add reference to W&I Code section 16001.9(a)(23). Subsections (c)(7), (c)(9) and (c)(17)(A) are repealed as the intent of those subsections is rephrased and addressed in (d)(6)(A) through (d)(6)(C).

Factual Basis:

It is necessary to amend this section to clarify that all children must be provided with, and allowed to possess, items such as clothing and other personal care items that are consistent with each child's protected rights in W&I Code section 16001.9(a)(23). These changes will ensure that children in care are protected from discrimination, as this relates to the clothes they choose to wear and will ensure a consistent application of the personal rights afforded to all children in out-of-home care.

Section 84072(d)(7) is renumbered from 84072(c)(8)

Specific Purpose/Factual Basis:

This section is renumbered from 84072(c)(8) to 84072(d)(7) as a result of the addition of 84072(d) and the repeal of surrounding sections.

Sections 84072(d)(8) through (d)(10) are renumbered from 84072(c)(11) through (c)(13)

Specific Purpose/Factual Basis:

These sections are renumbered from 84072(c)(11) through (c)(13) to 84072(d)(8) through (d)(10) as a result of the addition of 84072(d) and the repeal of surrounding sections.

Section 84072(d)(11)

Specific Purpose:

This section is amended to create consistency among all Children's Residential Facility regulations [Previous numbering (c)(15)].

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations. The right to be protected from abuse is essential to any child living in a safe environment.

Sections 84072(c)(17) and (c)(17)(A)

Specific Purpose/Factual Basis:

Subsections (c)(17) and (c)(17)(A) are repealed. Subsection (c)(17) is duplicative of statute, W&I Code section 16001.9(a). Subsection (c)(17)(A) is repealed because the intent of the subsection is rephrased and addressed in (d)(6)(A) through (d)(6)(C).

Section 84072(d)(12) through (d)(14) are renumbered from 84072(c)(22) through (c)(24)

Specific Purpose/Factual Basis:

These sections are renumbered from 84072(c)(22) through (c)(24) to 84072(d)(12) through (d)(14) as a result of the addition of 84072(d) and the repeal of surrounding sections.

Section 84072(d)(15) is renumbered from 84072(c)(33)

Specific Purpose/Factual Basis:

This section is renumbered from 84072(c)(33) to 84072(d)(15) as a result of the addition of 84072(d) and the repeal of surrounding sections.

Handbook Section 84072(d)(16)

Specific Purpose/Factual Basis:

This handbook section is added to include an example for clarity as well as W&I Code section 16001.9 in its entirety.

Section 84072(e)

Specific Purpose:

This section is amended to add a reference to W&I Code section 16001.9(b).

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations. Additionally, this section is amended for clarity and consistency with this section of regulations to add "licensee or Group Home Staff" where previously "foster care Provider" was used.

Handbook Section 84072(e)

Specific Purpose/Factual Basis:

This handbook section is added to include W&I Code section 16001.9(b).

Section 84079(a)(4)

Specific Purpose:

This section is amended to remove a reference to Section 84072(c)(34) and to replace it with reference to W&I Code section 16001.9(a)(26).

Factual Basis:

This section is amended to remove a reference to Section 84072(c)(34), as this section is being repealed by this regulations package. The W&I Code section 16001.9(a)(26) is consistent with former 83072(c)(34).

Section 84087(b)(1)

Specific Purpose:

This section is amended for clarity and consistency in accordance with APA, GC section 11349, Subdivisions (c) and (d).

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations. Specifically, this section is amended to change "sleep" in a bedroom to "share" a bedroom, as is consistent with all other categories.

Sections 84087(b)(3) and (b)(3)(A) through (C)

Specific Purpose:

These sections are amended for clarity to create one section in the regulations that would contain the allowable circumstances for children of different sexes to share a bedroom. Subsection (A) is created to extricate the first of the allowable instances of bedroom sharing.

Factual Basis:

Currently, in this section of regulations, there are two instances where different sexes may share a bedroom. The addition of Subsections (A) and (C) necessitate a reformat of the subsection for clarity.

Section 84087(b)(3)(C)

Specific Purpose:

This section is amended for clarity and to allow children of different sexes, but the same gender identity, to share a bedroom.

Factual Basis:

Allowing youths of different biological sexes to share a bedroom consistent with their gender identity while considering the health and safety of both youths will ensure that children "Live in a safe, healthy, and comfortable home where he or she is treated with respect," in accordance with W&I Code section 16001.9(a)(1). The SB 731, Statutes of 2015, changed statute in W&I Code section 16001.9(a) by adding Subsection (24), which affords all foster children the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare documents. Additionally, this bill added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. Adding this section to regulations will ensure that Group Home regulations comport with statute.

Sections 84087(d)

Specific Purpose:

This section is added to create the requirement that in each bedroom sharing arrangement, a licensee shall document that the arrangement ensures the health, safety and compatibility of the children, including a discussion regarding each child's sexual orientation and gender identity.

Factual Basis:

Children in out-of-home care have the right to "Live in a safe, healthy, and comfortable home where he or she is treated with respect," in accordance with W&I Code section 16001.9(a)(1). In order to ensure this right it is necessary for the licensee to consider the compatibility of each child as well as their health and safety when considering a bedroom sharing arrangement. Requiring the licensee to document this in each child's record will facilitate enforcement of this provision.

Section 84272(a)

Specific Purpose:

This section is amended to update a reference from 84072(c)(5) to 84072(d)(5) and remove the references to (c)(26), (c)(28) and (c)(30).

Factual Basis:

This section refers to subsections of regulations that have been repealed or renumbered. Therefore, this section is amended for clarity.

Section 86001(g)(1)

Specific Purpose:

This subsection is amended to add a definition for "Gender Expression."

Factual Basis:

This change is necessary to add a definition for "Gender Expression," where one did not previously exist ensuring that Transitional Housing Placement Program (THPP) regulations are consistent with accepted terminology most notably found in *Transgender and Gender Nonconforming Children in California Foster Care*, Family Builders, National Center for Lesbian Rights, Center for the Study of Social Policy (2016) <http://www.cssp.org/refor/m/child-welfare/get-real/what-we-do/body/TGNC-Children-in-CA-Foster-Care-Feb-2016.pdf>. This change was made based on information received from stakeholder workgroups. It is an important distinction to understand the difference between the new terminologies being added by this regulation package as it pertains to providing culturally competent care to children in out-of-home care. Also, this change is in accordance with W&I Code section 16001.9 (a)(1): "To live in a safe, healthy, and comfortable home where he or she is treated with respect."

Section 86001(g)(2)

Specific Purpose:

This subsection is added to include a definition for "Gender Identity."

Factual Basis:

This change is necessary to add a definition for "Gender Identity," where one did not previously exist ensuring that THPP regulations are consistent with accepted terminology. Additionally, this change is necessary to inform caregivers of possible dynamics of the children in their care. This change implements SB 731, Statutes of 2015, which changed W&I Code section 16001.9(a) by adding Subsection (24), which affords all foster children the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare documents. The SB 731 added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. This change also supports the right of children to "Live in a safe, healthy, and comfortable home where he or she is treated with respect" in accordance with W&I Code section 16001.9(a)(1).

Section 86001(g)(3) is renumbered from 86001(g)(1)

Specific Purpose/Factual Basis:

This section is renumbered from 86001(g)(1) to 86001(g)(3) as a result of the addition of new definitions in 86001(g)(1) and (g)(2).

Section 86001(s)(2)

Specific Purpose:

This section is amended to add a definition for "Sexual Orientation." Subsections (s)(2) through (s)(8) are renumbered [amended numbering (s)(3) through (s)(9)] for the purpose of clarity.

Factual Basis:

This section is adopted to implement AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to afford the personal right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This change is necessary to add a definition for "Sexual Orientation" where one did not previously exist, ensuring that these regulations are consistent with accepted terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care. Washington, DC: Child Welfare League of America, 2006. Print.

Sections 86001(s)(3) through (s)(9) are renumbered from 86001(s)(2) through (s)(8)

Specific Purpose/Factual Basis:

Sections 86001(s)(3) through (s)(9) are renumbered from 86001(s)(2) through (s)(8) as a result of the addition of a new definition in 86001(s)(2).

Section 86001(t)(1)

Specific Purpose:

This section is amended to add a definition for "Transgender."

Factual Basis:

This section is amended to implement SB 731, Statutes of 2015, which amended W&I Code section 16001.9(a) by adding Subsection (24), which affords all foster children the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare records. The SB 731 added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. This section also implements AB 1856, Statutes of 2012, which amended W&I Code section

16001.9(a) to afford the personal right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This change is necessary to add a definition for "Transgender" where one did not previously exist to help provide foster parents with the most current terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care. Washington, DC: Child Welfare League of America, 2006. Print.

Section 86001(t)(2) is renumbered from 86001(t)(1)

Specific Purpose/Factual Basis:

This section is amended for clarity by indicating that the initialism "THPP" is shorthand for "Transitional Housing Placement Program." The initials "THPP" are used throughout this subdivision but lacked clear definition. Section 86001(t)(1) is renumbered to 86001(t)(2) because of the addition of a new definition in 86001(t)(1).

Sections 86001(t)(3) through (t)(5) are renumbered from 86001(t)(2) through (t)(4)

Specific Purpose/Factual Basis:

This section is renumbered from 86001(t)(2) through (t)(4) to 86001(t)(3) through (t)(5) as a result of the addition of a new definition in 86001(t)(1).

Section 86065(a)(1)(B)

Specific Purpose:

This section is adopted to implement training requirements for caregivers regarding cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care.

Factual Basis:

This regulation is necessary to implement AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to afford the right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This regulation will ensure that THPP regulations comport with statute.

Section 86072(a)

Specific Purpose:

This section is amended to create consistency among all Children's Residential Facility regulations.

Factual Basis:

For clarity and in order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations.

Section 86072(b)

Specific Purpose/Factual Basis:

This subsection is repealed as the intent of this subsection is rephrased and addressed in (c).

Section 86072(b) is relettered from 86072(c)

Specific Purpose/Factual Basis:

This subsection is relettered for the purpose of clarity and consistency in accordance with the APA, GC section 11349, Subdivisions (c) and (d) and to be more consistent with personal rights sections in all Children's Residential Facility regulations.

Section 86072(c)

Specific Purpose:

This subsection reflects the intent of former Subsection (b) and added reference to W&I Code section 16001.9 [New Subsection (b) is relettered from Former Subsection (c)].

Factual Basis:

These changes are made to reference the personal rights specified in statute, W&I Code section 16001.9(a), and to reference the additional personal rights accorded by CDSS for purposes of clarity. The paragraphs that duplicated statute in W&I Code section 16001.9(a) are repealed.

Sections 86072, (d)(3), (d)(5), (d)(7) through (d)(11), (d)(13) through (d)(15), (d)(16)(B) and (d)(22) through (d)(23)

Specific Purpose/Factual Basis:

These sections are repealed for the purpose of clarity. These sections are duplicative of statute in W&I Code section 16001.9(a) and the intent of (d)(23) is rephrased and addressed in (c).

Section 86072(c)(1) is renumbered from Section 86072(d)(2)

Specific Purpose/Factual Basis:

This section is renumbered from 86072(d)(2) to 86072(c)(1) as a result of the repeal of surrounding sections.

Section 86072(c)(2) is renumbered from Section 86072(d)(4)

Specific Purpose:

This section is amended to create consistency among all Children's Residential Facility regulations. This section is renumbered for clarity.

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations. Specifically, this section is amended to clarify a child's right to be free from physical, sexual, emotional or other abuse consistent with W&I Code section 16001.9(a).

Section 86072(c)(3)

Specific Purpose:

This section is added to clarify W&I Code section 16001.9(a)(8).

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations. These changes support W&I Code section 16001.9(a)(8), which includes the right to contact the Department's Community Care Licensing Division regarding violations of rights.

Section 86072(c)(4) is renumbered from Section 86072(d)(6)

This section is renumbered [previous numbering (d)(6) amended numbering (c)(4) for clarity]. This section is amended to create consistency among all Children's Residential Facility regulations.

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care, this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations. Specifically, this change adds the personal right of having access to letter writing material.

Section 86072(c)(5) is renumbered from 86072(d)(16)

This section is renumbered [previous numbering (d)(16) amended numbering (c)(5) for clarity] to create consistency among all Children's Residential Facility regulations.

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations. Former Subsection (d)(16)(B) is duplicated in statute, W&I Code section 16001.9(a)(21), and is repealed for purposes of clarity.

Section 86072(c)(6)

Specific Purpose:

This subsection is adopted to clarify the greater independence afforded this population.

Factual Basis:

In order to ensure appropriate treatment of this population, which includes legal adults, this section is amended to clarify that these children have the right to be afforded greater independence but that it should be in accordance with the age and maturity of the child.

Sections 86072(c)(7)(A) through (C) are renumbered from 86072(d)(17)

Specific Purpose:

Sections 86072(c)(7)(A) through (C) are renumbered from (d)(17)(A) through (C) to create consistency among all Children's Residential Facility regulations.

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care, this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations. Reference to Subdivision (h) of Section 16522.1 of the W&I Code is deleted because Subdivision (h) was re-lettered in SB 1013 (Statutes of 2012).

Section 86072(c)(8) is renumbered from 86072(d)(18)

Specific Purpose/Factual Basis:

Section 86072(d)(18) is renumbered to 86072(c)(8) due to the repeal of many surrounding sections.

Sections 86072(c)(9) and (c)(9)(A) are renumbered from 86072(d)(19) and (d)(19)(A)

Specific Purpose:

Section 86072(d)(19) is renumbered to 86072(c)(9). Subsections (c)(9)(B) and (C) are added as these sections create consistency among all Children's Residential Facility regulations.

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations. Specifically, this section is amended to clarify that all children in out-of-home care must be allowed to possess and use items such as clothing and other personal care items.

Section 86072(c)(10) is renumbered from 86072(d)(20)

Specific Purpose:

Section 86072(d)(20) is renumbered to 86072(c)(10) due to the repeal of many surrounding sections. This section is amended to create consistency among all Children's Residential Facility regulations.

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations. Specifically this section is amended to clarify a child's right to communicate via confidential telephone calls and correspondence.

Sections 86072(c)(10)(A), (B)1 through 5 and (C) and (D)

Specific Purpose:

These sections are added to create consistency among all Children's Residential Facility regulations.

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations. Specifically, this section is amended to clarify a child's right to communicate via confidential telephone calls and correspondence.

Section 86072(d)(21)

Specific Purpose/Factual Basis:

Section 86072(d)(21) is repealed as this right is combined in 86072(c)(10).

Handbook Section 86072(c)(9)

Specific Purpose/Factual Basis:

This handbook section is added to include W&I Code section 16001.9(a).

Section 86072(d)

Specific Purpose:

This section is adopted to add reference to W&I Code section 16001.9(b).

Factual Basis:

This change is necessary for clarity. Consistent with W&I Code section 16001.9(b) this subsection provides that a licensee, in ensuring the rights of a participant, is not required to permit or take any action that would impair the health and safety of a participant or others in the facility. In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations.

Handbook Section 86072(d)

Specific Purpose/Factual Basis:

This handbook section is added to include W&I Code section 16001.9(b).

Section 86072.1(a)

Specific Purpose:

This section is amended to remove a reference to Section 86072(d)(22) and to replace it with reference to W&I Code section 16001.9(a)(26).

Factual Basis:

This section is amended to remove a reference to Section 86072(d)(22), as this section is being repealed by this regulations package. The W&I Code section 16001.9(a)(26) is consistent with former 83072(c)(22).

Section 86087(a)(1)(B)

Specific Purpose:

These subsections are amended for clarity and consistency to create one subsection that clarifies allowable circumstances for children of different sexes to share a bedroom.

Factual Basis:

The addition of Subsections (B)(1) and (2) clarify allowable circumstances for children of different sexes to share a bedroom.

Sections 86087(a)(1)(B)(1) and (B)(2)

Specific Purpose:

These subsections are adopted to clarify the allowable situations where THPP participants of different sexes may share a bedroom.

Factual Basis:

The SB 731, Statutes of 2015, changed statute in W&I Code section 16001.9(a) by adding Subsection (24), which affords all children in out-of-home care the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare records. Additionally, this bill added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. Adding this section to regulations will ensure that THPP regulations comport with statute. Allowing youths of different biological sexes with the same gender identity the option of sharing a bedroom, while considering the health and safety of both youths, will ensure that children in out-of-home care in this population "Live in a safe, healthy, and comfortable home where he or she is treated with respect" in accordance with W&I Code section 16001.9(a)(1).

Sections 86087(g)

Specific Purpose:

This section is added to create the requirement that in each bedroom sharing arrangement, a licensee shall document that the arrangement ensures the health, safety and compatibility of the children, including a discussion regarding each child's sexual orientation and gender identity.

Factual Basis:

The THPP participants have the right to "Live in a safe, healthy, and comfortable home where he or she is treated with respect," in accordance with W&I Code section 16001.9

(a)(1). In order to ensure this right it is necessary for the licensee to consider the compatibility of each participant as well as their health and safety when considering a bedroom sharing arrangement. Requiring the licensee to document this in each participant's record will facilitate enforcement of this provision.

Section 88001(g)(1)

Specific Purpose:

This section is amended to add a definition for "Gender Expression."

Factual Basis:

This change is necessary to add a definition for "Gender Expression," where one did not previously exist ensuring that Group Homes regulations are consistent with accepted terminology most notably found in *Transgender and Gender Nonconforming Children in California Foster Care*, Family Builders, National Center for Lesbian Rights, Center for the Study of Social Policy (2016): <http://www.cssp.org/reform/child-welfare/get-real/what-we-do/body/TGNC-Children-in-CA-Foster-Care-Feb-2016.pdf>. This change was made based on information received from stakeholder workgroups. It is an important distinction to understand the difference between the new terminologies being added by this regulation package as it pertains to providing culturally competent care to children in out-of-home care. Also, this change is in accordance with W&I Code section 16001.9 (a)(1): "To live in a safe, healthy, and comfortable home where he or she is treated with respect."

Section 88001(g)(2)

Specific Purpose:

This section is amended to add a definition for "Gender Identity."

Factual Basis:

This change is necessary to add a definition for "Gender Identity," where one did not previously exist ensuring that Foster Family Agencies regulations are consistent with accepted terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. *CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care*. Washington, DC: Child Welfare League of America, 2006. Print. This change implements SB 731, Statutes of 2015, which amended W&I Code section 16001.9(a) by adding Subsection (24) affording all children in out-of-home care the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare records. The SB 731 added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. Adding this definition supports the new statutory personal right. Also, this change is in accordance with W&I Code section 16001.9 (a)(1): "To live in a safe, healthy, and comfortable home where he or she is treated with respect."

Section 88001(g)(3) is renumbered from (g)(1)

Specific Purpose/Factual Basis:

Section 88001(g)(1) is renumbered to 88001(g)(3) due to the addition of new definitions in 88001(g)(1) and (g)(2).

Section 88001(s)(1)

Specific Purpose:

This section is amended to add a definition for "Sexual Orientation."

Factual Basis:

This section is adopted to implement AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to afford the personal right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This change is necessary to add a definition for "Sexual Orientation" where one did not previously exist, ensuring that these regulations are consistent with accepted terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care. Washington, DC: Child Welfare League of America, 2006. Print.

Sections 88001(s)(2) through (s)(5) are renumbered from 88001(s)(1) through (s)(4)

Specific Purpose/Factual Basis:

Sections 88001(s)(1) through (s)(4) are renumbered to 88001(s)(2) through (s)(5) due to the addition of a new definition in Section 88001(s)(1).

Section 88001(t)(1)

Specific Purpose:

This section is amended to add a definition for "Transgender." Subsection (t)(1) is renumbered [amended numbering (t)(2)] for the purpose of clarity.

Factual Basis:

This section is amended to implement SB 731, Statutes of 2015, which amended W&I Code section 16001.9(a) by adding Subsection (24), which affords all foster children the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare records. The SB 731 added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. This

section also implements AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to afford the personal right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This change is necessary to add a definition for "Transgender" where one did not previously exist to help provide foster parents with the most current terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care. Washington, DC: Child Welfare League of America, 2006. Print.

Section 88001(t)(2) is renumbered from 88001(t)(1)

Specific Purpose/Factual Basis:

Section 88001(t)(1) is renumbered to 88001(t)(2) due to the addition of a new definition in Section 88001(t)(1).

Handbook Section 88022(a)(5)(B)

Specific Purpose/Factual Basis:

This handbook section is added to update H&S Code section 1529.2.

Section 89201(g)(1)

Specific Purpose:

This section is amended to add a definition for "Gender Expression."

Factual Basis:

This change is necessary to add a definition for "Gender Expression," where one did not previously exist ensuring that Foster Family Homes regulations are consistent with accepted terminology most notably found in *Transgender and Gender Nonconforming Children in California Foster Care*, Family Builders, National Center for Lesbian Rights, Center for the Study of Social Policy (2016): <http://www.cssp.org/reform/child-welfare/get-real/what-we-do/body/TGNC-Children-in-CA-Foster-Care-Feb-2016.pdf>. This change was made based on information received from stakeholder workgroups. It is an important distinction to understand the difference between the new terminologies being added by this regulation package, as it pertains to providing culturally competent care to children in out-of-home care. Also, this change is in accordance with W&I Code section 16001.9 (a)(1): "To live in a safe, healthy, and comfortable home where he or she is treated with respect."

Section 89201(g)(2) is renumbered from Section 89201(g)(1)

Specific Purpose:

Section 89201(g)(1) is renumbered to 89201(g)(2) due to the addition of a new definition in Section 89201(g)(1). This section is amended to revise the definition for "Gender Identity."

Factual Basis:

This change is necessary to update the definition for "Gender Identity" to include a gender identification of "other." This change will ensure that Foster Family Home regulations are consistent with accepted terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. *CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care*. Washington, DC: Child Welfare League of America, 2006. Print. This change implements SB 731, Statutes of 2015, which amended W&I Code section 16001.9(a) by adding Subsection (24), affording all children in out-of-home care the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare records. The SB 731 added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. Adding this definition supports the new statutory personal right. Also, this change is in accordance with W&I Code section 16001.9 (a)(1): "To live in a safe, healthy, and comfortable home where he or she is treated with respect."

Section 89201(g)(3) is renumbered from 89201(g)(2)

Specific Purpose/Factual Basis:

Section 89201(g)(2) is renumbered to 89201(g)(3) due to the addition of a new definition in Section 89201(g)(1).

Section 89201(s)(3)

Specific Purpose:

This section is amended to revise the definition for "Sexual Orientation" for the purpose of clarity and consistency.

Factual Basis:

This change is necessary to amend the definition for "Sexual Orientation," ensuring that these regulations are consistent with accepted terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. *CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care*. Washington, DC: Child Welfare League of America, 2006. Print. This change implements AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to afford the personal right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care.

Section 89201(t)(1)

Specific Purpose:

This section is amended to add a definition for "Transgender."

Factual Basis:

This section is amended to implement SB 731, Statutes of 2015, which amended W&I Code section 16001.9(a) by adding Subsection (24), which affords all foster children the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare records. The SB 731 added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. This section also implements AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to afford the personal right to all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This change is necessary to add a definition for "Transgender" where one did not previously exist to help provide foster parents with the most current terminology most notably found in Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care. Washington, DC: Child Welfare League of America, 2006. Print.

Section 89201(t)(2) is renumbered from 89201(t)(1)

Specific Purpose/Factual Basis:

Section 89201(t)(1) is renumbered to 89201(t)(2) due to the addition of a new definition in Section 89201(t)(1).

Section 89372(a)(1)

Specific Purpose:

This section is amended for clarity and to create consistency among all Children's Residential Facility regulations. This section is renumbered for clarity.

Factual Basis:

In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended for clarity and consistency with personal rights sections in all Children's Residential Facility regulations, consistent with W&I Code section 16001.9(a). Specifically, this section is amended to clarify a child's right to be free from physical, sexual, emotional or other abuse.

Section 89372(a)(2)(A)

Specific Purpose:

This section is amended to create consistency among all Children's Residential Facility regulations and to add a reference to W&I Code section 16001.9(a)(23).

Factual Basis:

This change is necessary to ensure that clothes provided are consistent with W&I Code section 16001.9(a)(23). This change will ensure that children in care are protected from discrimination as it relates to the clothes they choose to wear consistent with statute.

Handbook Section 89372(a)(10)(A) and (B)

Specific Purpose/Factual Basis:

This handbook section is added to update W&I Code section 16001.9(a).

Section 89372(b)

Specific Purpose:

This section is amended to add reference to W&I Code section 16001.9(b).

Factual Basis:

This change is necessary for clarity. Consistent with W&I Code section 16001.9(b), this subsection provides that a licensee, in ensuring the rights of a participant, is not required to permit or take any action that would impair the health and safety of a participant or others in the facility. In order to ensure a consistent application of the personal rights afforded to all children in out-of-home care this section is amended to be more consistent with personal rights sections in all Children's Residential Facility regulations.

Handbook Section 89372(b)(1)

Specific Purpose/Factual Basis:

This handbook section is added to include W&I Code section 16001.9(b).

Handbook Sections 89379(a)(4) and (5)

Specific Purpose:

This handbook section is amended to remove references to specific social organizations.

Factual Basis:

Currently, this section of regulations contains a list of activities in which foster children may be involved. Subsections (a)(4) and (5) specifically list: "4H" and "Scouting." Changing the language in these subsections to more general terms that do not specify organizations by name supports inclusivity, which is consistent with the personal rights of children in foster care as specified in W&I Code section 16001.9(a). Furthermore, it is consistent with the rest of the activities listed in this section to use more general language

that describes the type of activities in which foster children may be involved rather than specific organizations.

Sections 89387(a)(2) and (a)(2)(A) through (B)

Specific Purpose:

This section is amended and subsections are added for clarity to create one section in the regulations that would contain the allowable circumstances for children of different sexes to share a bedroom.

Factual Basis:

Currently in this section of regulations there are two instances where different sexes may share a bedroom. The addition of a third situation in Subsection (C) necessitates a reformat of the regulations for clarity.

Section 89387(a)(2)(C)

Specific Purpose:

This section is amended for clarity and to allow children of different sexes, but the same gender identity, to share a bedroom.

Factual Basis:

The SB 731, Statutes of 2015, changed statute in W&I Code section 16001.9(a) by adding Subsection (24), which affords all foster children the right to be placed according to their gender identity, regardless of the sex or gender listed in their court or child welfare records. Additionally, this bill added H&S Code section 1502.8, which requires the Department to promulgate regulations supporting this new personal right. Adding this section to the regulations will ensure that Foster Family Home regulations comport with statute. Allowing youths of different biological sexes with the same gender identity the option of sharing a bedroom, while considering the health and safety of both youths, will ensure that children in out-of-home care "Live in a safe, healthy, and comfortable home where he or she is treated with respect," in accordance with W&I Code section 16001.9(a)(1).

Sections 89387(b)

Specific Purpose:

This section is added to create the requirement that in each bedroom sharing arrangement, a licensee shall document that the arrangement ensures the health, safety and compatibility of the children, including a discussion regarding each child's sexual orientation and gender identity. Subsections (b) through (p) are relettered [amended lettering (c) through (q)] for the purpose of clarity.

Factual Basis:

Children in out-of-home care have the right to "Live in a safe, healthy, and comfortable home where he or she is treated with respect," in accordance with W&I Code section 16001.9(a)(1). In order to ensure this right it is necessary for the licensee to consider the compatibility of each child as well as their health and safety when considering a bedroom sharing arrangement. Requiring the licensee to document this in each child's records will facilitate enforcement of this provision.

Sections 89387(c) through (q) are relettered from 89387(b) through (p)

Specific Purpose/Factual Basis:

Sections 89387(b) through (p) are relettered to 89387(c) through (q) due to the addition of Section 89387(b).

Section 89405(a)(1)(K)

Specific Purpose:

This section is adopted to implement a new training requirement for caregivers regarding cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care.

Factual Basis:

This regulation is necessary to implement AB 1856, Statutes of 2012, which amended W&I Code section 16001.9(a) to afford the right for all foster children to have a caregiver that has received instruction in cultural competency and sensitivity relating to, and best practices for, providing adequate care to LGBT youth in out-of-home care. This regulation will ensure that Foster Family Home regulations comport with statute.

Handbook Section 87468(a)(1)(J)

Specific Purpose/Factual Basis:

This handbook section is amended to update H&S Code section 1529.2.

b) Identification of Documents Upon Which Department Is Relying

AB 1856, Chapter 639, Statutes of 2012

SB 528, Chapter 338, Statutes of 2013

SB 731, Chapter 805, Statutes of 2015

Wilber, Shannan, Caitlin Ryan, and Jody Marksamer. *CWLA Best Practice Guidelines: Serving LGBT Youth in Out-of-home Care*. Washington, DC: Child Welfare League of America, 2006. Print.

Transgender and Gender Nonconforming Children in California Foster Care, Family Builders, National Center for Lesbian Rights, Center for the Study of Social Policy (2016): <http://www.cssp.org/reform/child-welfare/get-real/what-we-do/body/TGNC-Children-in-CA-Foster-Care-Feb-2016.pdf>

Guidelines for Managing Information Related to the Sexual Orientation, Gender Identity and Expression of Children in Child Welfare Settings, Family Builders, Legal Services for Children, National Center for Lesbian Rights, Center for the Study of Social Policy (2013): <http://www.nclrights.org/legal-help-resources/resource/guidelines-for-managing-informationrelated-to-the-sexual-orientation-gender-identity-and-expression-of-children-in-child-welfaresettings-2013/>

c) Local Mandate Statement

These regulations do impose a mandate upon local agencies, but not on school districts. There are no "state-mandated local costs" in these regulations which require state reimbursement under Section 17500 et seq. of the GC because any costs associated with the implementation of these regulations are costs mandated by the federal government within the meaning of Section 17513 of the GC.

d) Statement of Alternatives Considered

The CDSS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

The CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the fact that businesses that currently offer training to Group Home Administrators or Caregivers need only add another training topic. This addition need not be significant as the statute does not require a specific amount of time spent on this training topic. The cost of adding instruction in cultural competency and sensitivity as it relates to best practices for LGBT youth should be absorbable.

f) Economic Impact Assessment

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The Creation or Elimination of Jobs Within the State of California

These proposed regulations aim to conform with:

AB 1856 (Chapter 639, Statutes of 2012)

- Requires caregivers, as specified, to receive instruction on LGBT cultural competency and best practices
- Adds to the Foster Child's Bill of Rights: the right to have a caregiver that has received instruction in cultural competency and best practice for providing care to LGBT youth

SB 528 (Chapter 338, Statutes of 2013)

- Adds to the Foster Child's Bill of Rights: the right to have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy and the prevention and treatment of sexually transmitted infections (STIs) at 12 years of age or older

SB 731 (Chapter 805, Statutes of 2015)

- Adds to the Foster Child's Bill of Rights: the right to be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed on their court or child welfare records
- Requires the department to adopt regulations consistent with this right

Specifically, the proposed regulations do the following: Add definitions of relevant terms, add a training element to existing training for all caregivers, clarify that all rights found in W&I Code section 16001.9 shall be afforded to all children in a facility, clarify that clothing must be provided and also in accordance with protected rights and allow bedroom sharing based on gender identity. The additional training element will be included in existing training programs for caregivers that are provided by vendors, foster family agencies and community colleges. Therefore, the Department has determined that this regulatory proposal will not have an impact on the creation or elimination of jobs in the State of California.

The Creation of New Businesses or the Elimination of Existing Businesses Within the State of California

These proposed regulations aim to conform with:

AB 1856 (Chapter 639, Statutes of 2012)

- Requires caregivers, as specified, to receive instruction on LGBT cultural competency and best practices
- Adds to the Foster Child's Bill of Rights: the right to have a caregiver that has received instruction in cultural competency and best practice for providing care to LGBT youth

SB 528 (Chapter 338, Statutes of 2013)

- Adds to the Foster Child’s Bill of Rights: the right to have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy and the prevention and treatment of STIs at 12 years of age or older

SB 731 (Chapter 805, Statutes of 2015)

- Adds to the Foster Child’s Bill of Rights: the right to be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed on their court or child welfare records
- Requires the department to adopt regulations consistent with this right

Specifically, the proposed regulations do the following: Add definitions of relevant terms, add a training element to existing training for all caregivers, clarify that all rights found in W&I Code section 16001.9 shall be afforded to all children in a facility, clarify that clothing must be provided and also in accordance with protected rights and allow bedroom sharing based on gender identity. The additional training element will be included in existing training programs for caregivers that are provided by vendors, foster family agencies and community colleges. Therefore, the Department has determined that this regulatory proposal will not have an impact on the creation or elimination of jobs in the State of California.

The Expansion of Businesses Currently Doing Business Within the State of California

These proposed regulations aim to conform with:

AB 1856 (Chapter 639, Statutes of 2012)

- Requires caregivers, as specified, to receive instruction on LGBT cultural competency and best practices
- Adds to the Foster Child’s Bill of Rights: the right to have a caregiver that has received instruction in cultural competency and best practice for providing care to LGBT youth

SB 528 (Chapter 338, Statutes of 2013)

- Adds to the Foster Child’s Bill of Rights: the right to have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy and the prevention and treatment of STIs at 12 years of age or older

SB 731 (Chapter 805, Statutes of 2015)

- Adds to the Foster Child’s Bill of Rights: the right to be placed in out-of-home care according to their gender identity, regardless of the gender or sex listed on their court or child welfare records
- Requires the department to adopt regulations consistent with this right

Specifically, the proposed regulations do the following: Add definitions of relevant terms, add a training element to existing training for all caregivers, clarify that all rights found in

W&I Code section 16001.9 shall be afforded to all children in a facility, clarify that clothing must be provided and also in accordance with protected rights and allow bedroom sharing based on gender identity. The additional training element will be included in existing training programs for caregivers that are provided by vendors, foster family agencies and community colleges. Therefore, the Department has determined that this regulatory proposal will not have an impact on the creation or elimination of jobs in the State of California.

g) Benefits Anticipated from Regulatory Action

The benefits of the regulatory action to the health and welfare of California residents, worker safety and the state's environment are as follows: by requiring all caregivers to receive instruction in cultural competency and best practices in providing care to LGBT youth, caregivers will be better prepared to meet the unique needs of this population that research suggests make up as much as 30% of all foster children. Additionally, research suggests that one in four foster children become pregnant before the age of 17; therefore, affording the personal right of access to medically accurate information regarding reproductive health and the prevention of unplanned pregnancy and STIs and the treatment of STIs will ensure this population has access to necessary resources. Lastly, affording the right to be placed according to a child's gender identity will allow a child to live in an environment where they feel safe and comfortable.

h) Statement of Specific Technology or Equipment

This regulatory action will not mandate the use of new, specific technologies or equipment.