

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM #1 Family Connections for Foster Youth, Foster Care Provider Training, and
Foster Family Agency Reference Checks

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held as follows:

March 12, 2008
Office Building # 9
744 P St. Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on March 12, 2008.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT: Office of Regulations Development
California Department of Social Services
744 P Street, MS 7-192
Sacramento, California 95814

TELEPHONE: (916) 657-2586 FACSIMILE: (916) 654-3286
E-MAIL: ord@dss.ca.gov

CHAPTERS

Title 22, Division 6, Chapter 1 (General Licensing Requirements), Section 80017 (Nondiscrimination of Applicants); Chapter 4 (Small Family Homes) Section 83017 (Applicant Qualifications), Section 83064 (Licensee Duties and Responsibilities), Section 83075 (Health Related Services), Chapter 5 (Group Homes), Section 84065 (Personnel Requirements), Section 84068.2 (Needs and Services Plan), Section 84090 (Initial Certification Training Program Approval Requirements), Subchapter 1, (Community Treatment Facilities), Section 84165, (Personnel Requirements), Subchapter 2, (Care for Children Under The Age of Six Years), Section 84265 (Personnel Requirements), Chapter 7 (Transitional Housing Placement Program), Section 86065 (Personnel Requirements), Section 86068.2 (Needs And Services And Transitional Independent Living Plan (TILP)), Chapter 7.3 (Crisis Nurseries), Section 86517 (Nondiscrimination of Applicants), Chapter 8.8 (Foster Family Agencies), Section 88001 (Definitions), Section 88022 (Plan of Operation), Section 88031 (Application For Certification), Section 88054 (Civil Penalties), Section 88065.3 (Social Work Personnel), Section 88068.2 (Needs and Services Plan), Section 88069.7 (Content of Certified Family Home or Licensed Foster Family Home Care Record), Chapter 9.5 (Foster Family Homes), Chapter 89317 (Nondiscrimination of Applicants), Section 89318 (Applicant Qualifications), Section 89378 (Responsibility For Providing Care And Supervision), Section 89405 (Training Requirements).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current Children's Residential community care regulations address connections with family in sections on personal rights accorded to children in out-of-home placement by Welfare and Institutions Code section 16001.9. Assembly Bill (AB) 1412, Chapter 640, Statutes of 2005 reinforced existing personal rights that children in placement have to contact family members, unless prohibited by court order, and have social contacts with people outside of the foster care system, such as teachers, church members, mentors, and friends, by requiring that actions be taken to maintain these connections consistent with the child's best interests.

Proposed regulatory amendments would incorporate provisions of AB 1412 into regulations for all Children's Residential facilities. Amendments have been made to the licensee duties and responsibilities section of small family home (SFH); needs and services plan sections of group home (GH), transitional housing placement program (THPP), and foster family agency (FFA); social work personnel section of FFA; and responsibility for providing care and supervision section of standalone foster family home (FFH) regulations.

Another personal right accorded to children in out-of-home placement is the right to nondiscrimination specified in Welfare and Institutions Code section 16001.9, which was recently added to sections on personal rights in Children's Residential regulations. AB 458, Chapter 331, Statutes of 2003 accorded this right and also required that all group home and foster care providers receive training in providing nondiscriminatory care. It also added Welfare and Institutions Code section 16013 and further stipulated that nondiscrimination extends to applicants wishing to become foster care providers.

Proposed regulatory amendments would incorporate AB 458 nondiscrimination training provisions into regulations for all Children's Residential facilities. Amendments have been made to the licensee duties and responsibilities section of SFH; initial certification training program approval requirements of GH; personnel requirements sections of all GH; plan of operation section of FFA; and training requirements section of standalone FFH regulations.

Proposed regulatory amendments would incorporate the provider nondiscrimination provisions of AB 458 by amending the applicant qualifications sections of general licensing requirements, SFH, and standalone FFH regulations.

Current Children's Residential regulations address incidental medical services provided for by Health and Safety Code section 1507 in sections that address health related services, personnel requirements, and training requirements. The Department proposes to clarify First Aid and CPR training requirements for certified parents by amending the health related services section of SFH regulations to state that caregivers shall complete first aid and CPR training in addition to other training that supports caring for children. The Department also proposes to clarify training provided for by Health and Safety Code 1529.2 that foster family agencies must provide as well as training that must be received by certified parents and foster parents.

Current FFA regulations address certification of family homes in Article 4, Certification and Use of Homes. AB 2661, Chapter 643, Statutes of 2004 added Health and Safety Code section 1506.7, which requires a FFA to ask the owner or operator of a family home applying for certification to provide an application that discloses whether the applicant has been certified, decertified, or put on placement hold status by a FFA. This bill added Health and Safety Code section 1506.8, which provides that a FFA shall contact any FFAs which have previously certified and states or counties which have previously licensed, an applicant for reference checks on certified family home applicants. It also added Health and Safety Code section 1506.9, which states that no civil liability shall be incurred as a result of the FFA providing the department with a log of certified and decertified family homes or notifying the department of its decision to decertify a certified family home.

Proposed regulatory amendments would incorporate AB 2661 provisions by adding a definition of "placement hold" to the definitions section of FFA regulations. An Application for Certification section would be added to regulations to outline information that applicants for family home certification must provide to FFAs, information that FFAs must provide to applicants for family home certification, and reference checks that FFAs must make before an applicant is certified as a family home.

Current FFA regulations make agencies responsible for paying civil penalties for violations cited against their certified family homes. AB 2661 allowed the department to issue a citation and assess a civil penalty of \$50.00 per day each time a FFA fails to provide the department with information about certified and decertified family homes.

A Civil Penalties section would be added to FFA regulations to provide immediate and repeat civil penalties when a FFA is cited for failing to provide the department with information about certified and decertified family homes.

COST ESTIMATE

1. Costs or Savings to State Agencies.

No fiscal impact exists because this regulation does not affect any State agency or program.

2. Costs to Local Agencies or School Districts.

None.

3. Nondiscretionary Costs or Savings to Local Agencies.

No fiscal impact exists because this regulation does not affect any local entity or program.

4. Federal Funding to State Agencies.

No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

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.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that the proposed regulations will affect small businesses. Children's residential programs regulations will be amended to implement statutes pursuant to the provisions of Assembly Bill (AB) 458, Chapter 331, Statutes of 2003, AB 1412, Chapter 640, Statutes of 2005, and AB 2661, Chapter 643, Statutes of 2004. These statutes require that foster care providers help maintain a foster child's connections, receive nondiscrimination training, and provide further procedures for certifying and decertifying homes, respectively. Also, regulations will clarify family connections; foster family agency, certified parent, and foster parent training responsibilities; content of the certified family home or licensed foster family home record.

ASSESSMENT OF JOB CREATION OR ELIMINATION

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.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine 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.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Health and Safety Code Section 1530. Subject regulations implement and make specific Welfare and Institutions Code Section 366.1, 366.2, and 16013. Health and Safety Code Section 1506.7, 1506.8, 1506.9, 1522.41, 1529.2, 1536, and 1548.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED
REGULATION

Contact Person: Sue Tognet (916) 657-2586
Backup: Sandra Ortega (916) 657-2586