

FINAL STATEMENT OF REASONS

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

Section 80001, et seq. (Definitions)

Specific Purpose:

The chapter number "8.8" is adopted and the word "chapter" is repealed in the lead paragraph for the section of definitions. The existing definition for "Child" is repealed. Subsections (c)(7) through (20) are renumbered to subsections (c)(6) through (19) to accommodate the repeal of the "Child" definition.

Factual Basis:

The chapter number "8.8" for Foster Family Agencies is adopted in Chapter 1, General Licensing Requirements, to indicate that the terms as defined in the definitions section also apply to those chapters for the purpose of clarity. The word "chapter" is repealed for the purpose of clarity since the reference to "chapters" applies to all of the chapter numbers that follow it. The definition for "Child" is repealed in General Licensing Requirements since the "Child" definition is incorporated separately into each Children's Residential facility category for the purpose of clarity and ease of use. These changes meet the clarity standard of the Administrative Procedure Act (APA), section 11349(c) of the Government Code.

Section 80075(i) through (o)

Final Modification

Specific Purpose/Factual Basis

Section 80075(i) through (o) is being renumbered to 80075(f) through (l), which corrects the numbering sequence of this section. This is a change without regulatory effect.

Section 83000(a)

Specific Purpose:

To correct the reference from 80001s.(2) to 80001(s)(3).

Factual Basis:

It is necessary to change the reference from 80001s.(2) to 80001(s)(3) for the purpose of clarity and consistency with the numbering of the referenced definition for "Small Family Homes" in General Licensing Requirements. This change meets the necessity, clarity, and consistency standards of the APA, section 11349(a), (c), and (d), of the Government Code.

Section 83001c (Definitions)

Specific Purpose:

The existing definition for "Child" is amended to repeal "years of age who is being provided care and supervision" and "except where otherwise specified in this chapter" and adopt language to specify that a "Child" also includes a person who is age 18 or 19, or age 18 to 22, as specified. The existing definition for "Child with Special Health Care Needs" is amended to repeal "child," adopt "person under 18 or 22 and younger," and adopt reference to section 17710 of the Welfare and Institutions Code.

Factual Basis:

The definitions for "Child" and "Child with Special Health Care Needs" are amended to clarify the ages at which a "child" may be in foster care in a Small Family Home. The definitions also clarify the conditions that must be met for a "child" to receive care past the age 18, at which he or she would be considered an "adult."

The definitions for "Child" and "Child with Special Health Care Needs" are consistent with section 1507.2 of the Health and Safety Code and sections 17710 and 17732.1 of the Welfare and Institutions Code, which specify that a "child" may remain in foster care up to age 22 if he or she has a developmental disability or special health care needs. The definition for "Child" is additionally consistent with section 11403 of the Welfare and Institutions Code, which specifies that a "child" may remain in foster care up to age 19 if he or she is participating in high school or the equivalent level of vocational or technical training, or pursuing a high school equivalency certificate.

Based on program experience with Children's Residential facilities, the California Department of Social Services (CDSS) believes it is necessary to clarify these definitions. These clarifications will mitigate CDSS staff workload caused by exception and waiver requests to provide care to a "child" past age 18.

Other nonsubstantive amendments have been made to the definitions for "Child" and "Child with Special Health Care Needs" for the purpose of clarity. These amendments meet the clarity standard of the APA, section 11349(c) of the Government Code, the requirements of style pursuant to section 11343.1 of the Government Code, and the principles of "Plain English" rule drafting.

Final Modification:

Following the public hearing, Handbook language for Section 83001c.(1) is amended to replace the proposed reference to Welfare and Institutions (W&I) Code 11403 with reference to W&I Code 11403 to be effective January 1, 2012, for clarity and consistency.

Section 84001, et seq. (Definitions)

Specific Purpose:

The existing definition for "Child" is amended to repeal "years of age and who is being provided care and supervision" and "except where otherwise specified in this chapter" and adopt language to specify that a "Child" also includes a person who is age 18 or 19, or age 18 to 22, as specified. The existing definition for "Child with Special Health Care Needs" is amended to repeal "child," adopt "person under 18 or 22 and younger," and adopt reference to section 17710 of the Welfare and Institutions Code. Subsection (a)(1) through (3) are renumbered to correct sequencing of definitions. "Minor Parent" in subsection (a)(5) is renumbered to subsection (m)(5) to correct sequencing of definitions.

Factual Basis:

The definitions for "Child" and "Child with Special Health Care Needs" are amended to clarify the ages at which a "child" may be in foster care in a Group Home. The definitions also clarify the conditions that must be met for a "child" to receive care past age 18, at which he or she would be considered an "adult."

The definitions for "Child" and "Child with Special Health Care Needs" are consistent with section 1507.2 of the Health and Safety Code and sections 17710 and 17732.1 of the Welfare and Institutions Code, which specify that a "child" may remain in foster care up to age 22 if he or she has a developmental disability or special health care needs. The definition for "Child" is additionally consistent with section 11403 of the Welfare and Institutions Code, which specifies that a "child" may remain in foster care up to age 19 if he or she is participating in high school or equivalent level of vocational or technical training, or pursuing a high school equivalency certificate.

Based on program experience with Children's Residential facilities, CDSS believes it is necessary to clarify these definitions. These clarifications will mitigate CDSS staff workload caused by exception and waiver requests to provide care to a "child" past age 18.

Other nonsubstantive amendments have been made to the definitions for "Child" and "Child with Special Health Care Needs" for the purposes of clarity. These amendments meet the clarity standard of the APA, section 11349(c) of the Government Code, the requirements of style pursuant to section 11343.1 of the Government Code, and the principles of "Plain English" rule drafting.

Final Modification:

Following the public hearing, Handbook language for Section 84001(c)(2) is amended to replace the proposed reference to Welfare and Institutions (W&I) Code 11403 with reference to W&I Code 11403 to be effective January 1, 2012, for clarity and consistency.

Section 84061(b)(3)

Final Modification

Specific Purpose/Factual Basis

Section 84061(b)(3) is amended to correct a cross-reference. This is a change without regulatory effect.

Section 86001, et seq. (Definitions)

Specific Purpose:

A definition is adopted for "Child."

Factual Basis:

A definition is adopted for "Child" to clarify the ages at which a "child" may be in foster care in a Transitional Housing Placement Program. The definition also clarifies the conditions that must be met for a "child" to receive care past age 18, at which he or she would be considered an "adult."

The definition for "Child" is consistent with section 11403 of the Welfare and Institutions Code, which specifies that a "child" may remain in foster care up to age 19 if he or she is participating in high school or equivalent level education or training, or pursuing a high school equivalency certificate.

Based on program experience with Children's Residential facilities, CDSS believes it is necessary to clarify these definitions. These clarifications will mitigate CDSS staff workload caused by exception and waiver requests to provide care to a "child" past age 18.

Final Modification:

Following the public hearing, Handbook language for Section 86001(c)(3) is amended to replace the proposed reference to Welfare and Institutions (W&I) Code 11403 with reference to W&I Code 11403 to be effective January 1, 2012, for clarity and consistency.

Section 88001, et seq. (Definitions)

Specific Purpose:

A definition is adopted for "Child." The existing definition for "Child with Special Health Care Needs" is amended to repeal "child," adopt "person under 18 or 22 and younger," and adopt reference to section 17710 of the Welfare and Institutions Code. The definition is also amended to adopt an additional condition for receiving care and renumber the conditions for receiving care to accommodate addition of the condition. Subsections (c)(5) through (7) are renumbered to subsections (c)(6) through (8) to accommodate addition of the "Child" definition.

Factual Basis:

A definition is adopted for "Child" and the definition for "Child with Special Health Care Needs" is amended to clarify the ages at which a "child" may be placed with a Foster Family Agency for foster care in a Certified Family Home. The definitions also clarify the conditions that must be met for a "child" to receive care past age 18, at which he or she would be considered an "adult."

The definitions for "Child" and "Child with Special Health Care Needs" are consistent with section 1507.2 of the Health and Safety Code and sections 17710 and 17732.1 of the Welfare and Institutions Code, which specify that a "child" may remain in foster care up to age 22 if he or she has a developmental disability or special health care needs. The definition for "Child" is additionally consistent with section 11403 of the Welfare and Institutions Code, which specifies that a "child" may remain in foster care up to age 19 if he or she is participating in high school or equivalent level of vocational or technical training, or pursuing a high school equivalency certificate.

Based on program experience with Children's Residential facilities, CDSS believes it is necessary to clarify these definitions. These clarifications will mitigate CDSS staff workload caused by exception and waiver requests to provide care to a "child" past age 18.

Other nonsubstantive amendments have been made to the definition for "Child with Special Health Care Needs" for the purpose of clarity. These amendments meet the clarity standard of the APA, section 11349(c) of the Government Code, the requirements of style pursuant to section 11343.1 of the Government Code, and the principles of "Plain English" rule drafting.

Final Modification:

Following the public hearing, Handbook language for Section 88001(c)(5) is amended to replace the proposed reference to Welfare and Institutions (W&I) Code 11403 with reference to W&I Code 11403 to be effective January 1, 2012, for clarity and consistency.

b) Identification of Documents Upon Which Department Is Relying

Section 1507.2 of the Health and Safety Code.

Sections 11403, 17710, and 17732.1 of the Welfare and Institutions Code.

Courtney, M.E., *The Difficult Transition to Adulthood for Foster Youth in the US: Implications for the State as Corporate Parent*, in Social Policy Report, Society for Research in Child Development, Vol. XXIII, No. 1, 2009.

Courtney, M.E., et al., *Midwest Evaluation of the Adult Functioning of Former Foster Youth*, Chapin Hall at the University of Chicago, 2007.

c) 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.

d) Statement of Alternatives Considered

The CDSS has made a determination 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 and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

Although the proposed action may affect Foster Family Agencies and Group Homes, CDSS has made a 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.

f) Testimony and Response

These regulations were considered as Item #1 at the public hearing held on September 14, 2011, in Sacramento, California. Written testimony was received from the following during the 45-day comment period from July 22, 2011, to 5:00 p.m. September 14, 2011.

- Alice Bussiere, Youth Law Center, San Francisco, CA

Sections 83001(c)(1), 84001(c)(2), 86001(c)(3), 88001(c)(5), 89201(c)(7)

1. Comment:

The Handbook language referencing Welfare and Institutions Code section 11403 should include, or be replaced by, the language of section 11403 effective January 1, 2012, depending on when the amended regulations are released. (If the amended regulations are released after January 1, 2012, they can include just the statutory language as amended by AB 12.)

Response

The Department thanks the testifier for this comment. CDSS will adopt, in part, your recommendation to replace the proposed Handbook language referencing Welfare and Institutions (Welf. & Inst.) Code section 11403 with the language in Welf. & Inst. Code section 11403 based on Assembly Bill 12 (Chapter 559, Statutes of 2010) and effective January 1, 2012. This handbook language will reflect Welf. & Inst. Code section 11403 as follows:

"...(b) ...Effective January 1, 2012, a nonminor former dependent child of the juvenile court who is receiving AFDC-FC benefits pursuant to Section 11405 shall be eligible to continue to receive aid up to 19 years of age, effective January 1, 2013, up to 20 years of age, and effective January 1, 2014, up to 21 years of age, as long as the nonminor is otherwise eligible for AFDC-FC benefits under this subdivision. This subdivision shall apply when one or more of the following conditions exist:

- (1) The nonminor is completing secondary education or a program leading to an equivalent credential.
- (2) The nonminor is enrolled in an institution which provides postsecondary or vocational education.
- (3) The nonminor is participating in a program or activity designed to promote, or remove barriers to employment.
- (4) The nonminor is employed for at least 80 hours per month.
- (5) The nonminor is incapable of doing any of the activities described in subparagraphs (1) to (4), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor."

CDSS will not adopt your recommendation to replace the Handbook language in Section 89201(c)(7) as these regulations do not address that section and go beyond the purview of this regulation package. However, CDSS will replace the Handbook language for that section when regulations that address all Children's Residential facilities and homes affected by AB 12 are separately released.

Section 84001(c)

2. Comment:

In addition to the suggestion above, the group home section should include the limitations on placing a youth in a group home, or continuing a group home placement, after the youth attains his or her youth's 19th birthday as mandated by Welfare and Institutions Code section 16501.1(c)(1).

Response

The Department thanks the testifier for this comment. CDSS will not adopt your recommendation that the Group Homes section of these regulations include the limitations on placing or continuing the placement of a youth in a Group Home based on Welfare and Institutions Code section 16501.1(c)(1) as specified in Assembly Bill 12 (Chapter 559, Statutes of 2010). These regulations do not address the provisions of AB 12, which will be addressed in regulations to be separately released.

g) 15-Day Renotice Statement

The CDSS did not renotice these regulations because no changes requiring renotice were made to the regulations following the public hearing.