

UPDATED INFORMATIVE DIGEST

The Community Care Facilities Act provides for the licensure and regulation of community care facilities which includes Foster Family Homes (FFH). FFH are regarded by statute as private residences pursuant to section 1530.5 of the Health and Safety Code. As specified in this statute, CDSS was authorized to develop regulations for FFH as an entirely separate regulation package from regulations that govern all other community care facilities.

In enacting Senate Bill (SB) 1641 (Chapter 388, Statutes of 2006 [amended Health and Safety Code section 1536.2 and Welfare and Institutions Code section 361.2]), the Legislature observed that many of the state's foster care licensing regulations have been developed with the objective of protecting the health and safety of children and youth in foster care, but are inadequate in providing a normal childhood experience or for creating a foster home environment that resembles a nonfoster care home environment. Further, existing FFH regulations are not user-friendly and difficult for current or prospective foster parents to follow. SB 1641 provided the California Department of Social Services (CDSS) with broad authority to establish updated FFH regulations to normalize the lives and to promote the well being of children in foster care.

CDSS convened a workgroup called the Children's Residential Regulations Review Workgroup (CRRRW) whose purpose was to review and revise the FFH regulations. The CRRRW met from May 2006 to November 2007. The CRRRW was comprised of experts in the field of foster care and included such organizations as the California Youth Connection (CYC), County Welfare Directors Association (CWDA), Legal Advocates for Permanent Parenting (LAPP), National Center for Lesbian Rights (NCLR), Youth Law Center (YLC), as well as current and former foster parents, foster parent associations and former foster youth. In developing the updated FFH regulations, the CRRRW created and relied on four guiding principles:

- Provide for the health, safety, and well-being of children
- Be clear, concise, user-friendly, and simple
- Promote a "normal" childhood experience
- Prepare foster youth for adulthood

These updated FFH regulations also implement several pieces of legislation that are folded into the regulations. This legislation includes:

- Assembly Bill (AB) 408 (Chapter 813, Statutes of 2003 [added Welfare and Institutions Code section 362.05]), which entitled children in foster care to participate in age-appropriate extracurricular, enrichment, and social activities and required the caregiver to use the prudent parent standard in allowing children to participate in these activities.
- AB 1116 (Chapter 637, Statutes of 2005 [added Health and Safety Code section 1507.25]), which authorized designated, trained caregivers who are not licensed health care providers to administer emergency medical assistance and/or injections for specific reasons to a child in foster care.

- AB 1514 (Chapter 120, Statutes of 2007 [added Welfare and Institutions Code section 739.5]), which specified that psychotropic medication may be administered to a child who is a ward of the court only with a court order.
- AB 2096 (Chapter 483, Statutes of 2008 [amended Welfare and Institutions Code sections 362.05 and 727]), which entitled children in foster care who are dependents of the court and wards of the court to participate in age-appropriate extracurricular, enrichment, and social activities and required the caregiver to use the prudent parent standard in allowing children to participate in these activities.
- SB 358 (Chapter 628, Statutes of 2005 [added Welfare and Institutions Code section 362.04]), which required the caregiver to use the reasonable and prudent parent standard in selecting occasional short-term babysitters and exempted these babysitters from regulatory requirements for criminal background check, health screening, and CPR training.
- SB 500 (Chapter 630, Statutes of 2005 [amended Welfare and Institutions Code sections 11400 and 16501.25]), which defined a "Whole Family Foster Home" and required a "Shared Responsibility Plan" for a minor parent and caregiver with regard to the minor parent's child.

At CDSS discretion, changes were made to the regulations in consultation with internal stakeholders and colleague State departments consistent with the authority, clarity, consistency, necessity, nonduplication, and reference standards of the Administrative Procedure Act, section 11349 of the Government Code.

These regulations were considered at the public hearing held on June 17, 2009 in Sacramento, California. No oral testimony was received, however, written testimony was received and as a result several changes were made to the proposed regulations which include:

- Expanding the definition of "sexual orientation" to include "actual or perceived" identification of any person as heterosexual, gay, lesbian, or bisexual.
- Replacing the term "facility" with "home" wherever appropriate in the proposed regulations. Public testimony recommended that the Department use the term "home" instead of "facility" to further promote normalcy.
- Amending the proposed regulation that would require the caregiver to surrender a child's cash resources, personal property, and valuables to the "child," if age and developmentally appropriate, to the placement agency or other authorized representative responsible for the care and custody of the "child" when the "child" leaves placement.
- Amending the proposed regulation that would have set a 24-hour time limit on the caregiver leaving a "child" alone without adult supervision and instead require the caregiver to not leave a "child" unsupervised overnight.
- Adopting a new regulation that would exempt the placement of infants from fire clearance requirements. The Department is adopting this change based on consistency with fire clearance requirements in current statute.

- Multiple testifiers recommended that the proposed regulations in regard to respite care be changed. They testified that the 72 hours maximum of respite care is not long enough and should be modified to a more reasonable amount of time, for example 120 hours or five days. The Department is declining to adopt this change based on the requirement in current statute and Manual of Policies and Procedures, Division 31 regulations that specify respite care not exceed 72 hours.
- In addition to the items noted above, several non-substantive changes were made in order to provide consistency and conformity to the regulations. Editorial changes were also made for clarity, consistency, and ease of use.

Pursuant to Government Code Section 11346.8, a 15-day renote and complete text of modifications made to the regulations were made available to the public following the public hearing. The modifications were renoted for public comment from November 3 to November 18, 2009; written testimony was received but did not require further modifications to the regulations.