

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

ITEM # 2 Transitional Care Prior to Placement

The 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 July 20, 2016, as follows:

Office Building # 8
744 P St. Room 103
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 purpose of the hearing is to receive public testimony, not to engage in debate or discussion. 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 July 20, 2016.

Following the public hearing CDSS may thereafter adopt the proposals substantially as described below or may modify the proposals if the 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 8-4-192
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CHAPTERS

Manual Policy and Procedures, Chapter 31-100

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law authorizes a County Child Welfare Services (CWS) agency social worker to take into and maintain temporary custody of a minor who has been declared a dependent child of the juvenile court or who the social worker has reasonable cause to believe is a child who has suffered serious harm or is at substantial risk of suffering serious harm as a result of abuse or neglect. Current law authorizes a CWS agency social worker to continue the temporary detention of a child until the child is placed or detained in the home of a relative, nonrelative extended family member or a licensed home or facility. Once a child is placed, current law imposes upon the care provider duties to provide adequate care and supervision. However, there are currently no laws or regulations which establish a duty on the CWS agency to provide adequate care and supervision to children in their custody.

These regulations are adopted now to ensure that a consistent and necessary standard of care and safety is maintained by a CWS agency for a child during the time a child is in the temporary custody of a CWS social worker. These rules are intended to fill a gap in the standard of care and supervision that exists in current CWS regulations and to minimize the potential traumatic impact of removing a child from the care of a parent, guardian or out-of-home care provider.

The proposed regulations also provide the authority for CDSS to investigate complaints related to transitional care, conduct site reviews and monitor county compliance with correction action plans.

During the process of developing these regulations and amendments, CDSS has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

Anticipated Benefits:

The CDSS anticipates that the proposed regulation will provide a minor dependent child adequate care and supervision in an environment free from undue hazards which is one of the basic duties and responsibilities for County CWS Agencies outlined, and also ensuring that all adults who have contact with children have a California criminal record clearance. Ultimately, these amendments will directly improve the health and safety of California residents, especially assisting minor children in securing a brighter future ahead of them.

COST ESTIMATE

1. **Costs or Savings to State Agencies:** The regulations are technical in nature and just clarify what constitutes adequate care and supervision for both the county welfare department and foster care providers, so there are no additional costs. Adequate care and supervision was already required for the counties and foster care providers when a child is in their custody. Funding for care and supervision of children in foster care has been provided for many years as part of Child Welfare

Services Basic budget for social workers and foster care assistance budget for foster care providers. Funding for both of these entities was part of the 2011 realignment that provides tax revenue direct to the counties for these costs.

2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: The regulations are technical in nature and just clarify what constitutes adequate care and supervision for both the county welfare department and foster care providers, so there are no additional costs. Adequate care and supervision was already required for the counties and foster care providers when a child is in their custody. Funding for care and supervision of children in foster care has been provided for many years as part of Child Welfare Services Basic budget for social workers and foster care assistance budget for foster care providers. Funding for both of these entities was part of the 2011 realignment that provides tax revenue direct to the counties for these costs.
4. Federal Funding to State Agencies: The regulations are technical in nature and just clarify what constitutes adequate care and supervision for both the county welfare department and foster care providers, so there are no additional costs. Adequate care and supervision was already required for the counties and foster care providers when a child is in their custody. Funding for care and supervision of children in foster care has been provided for many years as part of Child Welfare Services Basic budget for social workers and foster care assistance budget for foster care providers. Funding for both of these entities was part of the 2011 realignment that provides tax revenue direct to the counties for these costs.

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 Government Code 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 Government Code.

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.

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

The CDSS has determined there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

STATEMENT OF RESULTS OF 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. These amendments will directly improve health and safety of California resident because the benefits of the regulatory action ensure that a consistent and necessary standard of care and safety is maintained by a CWS Agency for a child during the time a child is in the temporary custody of a CWS Social Worker.

STATEMENT OF EFFECT ON HOUSING COSTS

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

STATEMENT OF ALTERNATIVES CONSIDERED

In developing the regulatory action, CDSS did consider alternatives other than developing regulations. However, CDSS 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, would be as effective and less burdensome to effected private persons then the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

Sections 10553 and 10554 of the Welfare and Institutions (W&I) Code grants CDSS the authority to develop the regulations. Sections 309(d)(1),16001.9 and 10605 of the W&I Code are being referenced to make the regulations more specific, as well as Section 1522 of the Health and Safety Code and Section 11105.3 of the Penal Code.

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

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