

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

ITEM # 1 Foster Family Homes Regulations

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 June 17, 2009, as follows:

June 17, 2009  
Office Building # 8  
744 P St., Room 105  
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 June 17, 2009.

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.

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## CHAPTERS

California Code of Regulations (CCR), Title 22, Division 6, Chapter 9.5 (Foster Family Homes), Sections 89200 through 89587.1.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

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.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: The Governor's Budget includes the following: in Fiscal Year (FY) 2008-09 there would be an increased admin. cost of \$825,000 and a foster care payment savings in the amount of \$180,000 resulting in net increased costs of \$645,000. In FY 2009-10 there would be an increased admin. cost of \$781,000 and a foster care payment savings in the amount of \$180,000 resulting in net increased costs of \$601,000.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: The Governor's Budget includes the following: in FY 2008-09 there would be an increased admin. cost of \$353,000 and a foster care payment savings in the amount of \$272,000 resulting in net increased costs of \$81,000. In FY 2009-10 there would be an increased admin. cost of \$335,000 and a foster care payment savings in the amount of \$272,000 resulting in net increased costs of \$63,000.
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: The Governor's Budget includes the following: in FY 2008-09 there would be an increased admin. cost of \$677,000 and a foster care payment savings in the amount of \$257,000 resulting in net increased costs of \$420,000. In FY 2009-10 there would be an increased admin. cost of \$642,000 and a foster care payment savings in the amount of \$257,000 resulting in net increased costs of \$385,000.

#### 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 not affect small businesses. The proposed regulations establish requirements for foster family homes and do not require compliance from business. Foster family homes are considered private residences pursuant to sections 1502 and 1530.5 of the Health and Safety Code.

#### 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 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 sections 1530, 1530.5, and 1531. Subject regulations implement and make specific Welfare and Institutions Code sections 309, 361.2, 362.04, 362.05, 362.7, 366.26, 369.5, 727, 739.5, 827, 4646, 11400, 11403, 11403.2, 11460, 11461, 11465, 16001.9, 16002.5, 16010, 16501, 16501.25, 16518, 16522, 17710, 17731, and 17732; Health and Safety Code sections 1501, 1501.1, 1502, 1503, 1505.2, 1507.25, 1508, 1520, 1521.5, 1521.6, 1522, 1522.1, 1529.2, 1530.91, 1533, 1534, 1549, 1559.110, 1596.750, 1596.78, 13113, 13131, 13143, 13143.6, 115921, and 115922; Penal Code sections 11165.6, 11165.7, 11165.9, and 11166; Education Code section 51931; Vehicle Code section 15620; Unruh Civil Rights Act, Civil Code section 51; California Fair Employment and Housing Act sections 12926 and 12926.1; California Constitution, Article 1, Section 13; AB 1695 (Chapter 653, Statutes of 2001) Section 21; Commercial Practices, 16 C.F.R. sections 1500.18 and 1513.6; and 42 U.S.C.A. section 1305.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED  
REGULATION

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