

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

**ALL COUNTY LETTER NO. 21-146
PROVIDER INFORMATION NOTICE 21-30-CRP**

This combined All County Letter and Provider Information Notice details the new child-specific certification process and procedure for placement of children and youth in an Out-of-State Residential Facilities as provided for by Assembly Bill AB 153.



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GAVIN NEWSOM
GOVERNOR

November 22, 2021

ALL COUNTY LETTER NO. 21-146 (**Supersedes ACL 08-21**)
PROVIDER INFORMATION NOTICE 21-30-CRP

TO: ALL OUT-OF-STATE RESIDENTIAL FACILITIES
ALL COUNTY WELFARE DIRECTORS
ALL COUNTY MENTAL HEALTH DIRECTORS
ALL CHIEF PROBATION OFFICERS
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL TITLE IV-E AND TITLE IV-B AGREEMENT TRIBES
THE DEPARTMENT OF HEALTH CARE SERVICES

SUBJECT: **NEW PROCESS FOR CHILD-SPECIFIC CERTIFICATION OF
OUT-OF-STATE RESIDENTIAL FACILITIES**

REFERENCE: [Assembly Bill \(AB\) 153. PUBLIC SOCIAL SERVICES.](#)

As of July 1, 2021, before a county places a California child in an out-of-state residential facility (OOSRF), the California Department of Social Services (CDSS) must certify the facility for placement of that specific child and the juvenile court must approve the placement. This joint guidance supersedes [All County Letter \(ACL\) Number 08-21](#), and any other guidance issued prior to this date regarding certification of OOSRFs and approval of placement of children and youth in OOSRF.

Under the new provisions, certification may occur only after 1) all in-state placements and services that meet the needs of the child have been exhausted, and 2) an individualized assessment of the needs of the child or nonminor dependent in relation to an identified out-of-state residential facility has been conducted by the county placing agency. Both of these requirements must be met before the county placing agency may request that CDSS certify the identified OOSRF for placement of a specific child.

The process created by this bill requires collaboration between state agencies and the county. This certification process is only available to use until July 1, 2022. After July

1, 2022, county child welfare agencies or probation departments shall not make new placements into OOSRFs, unless those placements fall within the limited exceptions listed on page six of this ACL/PIN. Additionally, after that date, the CDSS, as California's Compact Administrator of the Interstate Compact on the Placement of Children, shall not seek approval from other states of any new placements in OOSRFs. By January 1, 2023, all OOSRF shall be decertified and all children placed in those facilities must have been returned to California.

NEW REQUIREMENTS FOR PLACEMENT OF A CHILD OR YOUTH IN AN OUT-OF-STATE RESIDENTIAL FACILITY

With the passage of AB 153, the Legislature and Governor enacted [Welfare Institution Code \(WIC\) section 16010.9](#). This statute requires, among other things, that counties engage in technical assistance through the Children and Family Services Division of the CDSS and verify that the OOSRF identified for the child does in fact meet the child's needs and that those needs cannot be met within California prior to seeking child-specific certification by the CDSS of the identified OOSRF. Further, as of October 1, 2021, the county must obtain an assessment of the child's services and placement needs that incorporates the recommendations made by a qualified individual (QI).¹ ([WIC sections 16010.9](#) and [4096](#).)

Only after a county placing agency satisfies the requirements for identifying an OOSRF as the recommended placement for the specific child may a county ask the CDSS to certify the OOSRF for placement of the specific child. ([WIC section 16010.9\(e\)](#).) And only after a county placing agency receives verification that the CDSS has certified the OOSRF for placement of the child may a county seek approval from the juvenile court for placement of the child in the identified OOSRF pursuant to [WIC section 361.21](#) or [subdivision \(b\) of WIC section 727.1](#), as applicable. ([WIC section 16010.9, subd. \(f\)](#).)

Once a county obtains juvenile court approval of the OOSRF placement, the CDSS may begin the process pursuant to the Interstate Compact on the Placement of Children (ICPC) to get approval for placement from the state in which the OOSRF is located. If the CDSS Compact Administrator does not receive 1) documentation that the county complied with the requirements of [WIC section 16010.9](#), 2) documentation of the CDSS's child-specific certification of the OOSRF, and 3) a copy of the juvenile court order approving the placement, the Compact Administrator may not submit the

¹ "Qualified individual" is defined in subdivision (f) of [WIC section 16501](#) as follows: Consistent with [Section 675a\(c\)\(1\)\(D\) of Title 42 of the United States Code](#), 'qualified individual' means a trained professional or licensed clinician responsible for conducting the determination described in subdivision (g) of [Section 4096](#) and determining the most effective and appropriate placement for a child. In the case of an Indian child, as defined in Section 224.1, a person may be designated by the child's tribe as the qualified individual pursuant to this subdivision and as defined in subdivision (c) of Section 224.6. In the absence of that designation, the qualified individual shall have specialized knowledge of, training about, or experience with, tribes and the federal [Indian Child Welfare Act of 1978 \(25 U.S.C. Sec. 1901 et seq.\)](#).

application for approval of the placement to the receiving state. ([Family Code \[FAM\] section 7911\(b\).](#))

ORDER OF PROCEDURES FOR CERTIFICATION (RESPONSIBLE PARTIES ARE IDENTIFIED WITH BOLD LETTERING BELOW)

1. **The county placing agency** shall explore all of its in-state placement and services options that meet the needs of the child and document the efforts.
2. **The county placing agency** shall fulfill all responsibilities set forth in [WIC sections 4096](#) and [16010.9\(c\)\(1\)-\(2\)](#), and document the actions taken to do so.
3. **The county placing agency** shall:
 - As of October 1, 2021, make a referral to a QI for assessment, as detailed in [All County Information Notice \(ACIN\) Number I-73-21](#) and [ACL 21-113](#).
 - o Once the placing agency has received the QI assessment identifying child-specific services and placement needs, it must make, and document, good faith efforts to implement the QI's recommendations that may avoid the need for out-of-state placement.
 - Participate in a child-specific, state-level Technical Assistance (TA) process by contacting SOCTACALLS@dss.ca.gov ([WIC section 16010.9 \(c\)\(1\)](#)). This shall include:
 - o Documentation of the good faith effort on the part of the county placing agency to implement any recommendations from a qualified individual.
 - o A child-specific review of statewide placement options.
 - o A review of child-specific service needs, to include obtaining recommendations from the TA team regarding available services and resources to meet child-specific needs.
 - Obtain a recommendation by a county multidisciplinary team (MDT) that determines whether the out-of-state placement will provide the needed child-specific services which are unable to be met in-state. ([WIC section 16010.9 \(c\).](#))
 - o These services should be aligned with the child-specific short- and long-term mental and behavioral health goals and treatment needs of the child, as identified by the QI.
 - o The county multidisciplinary team may include county child welfare, probation, education, behavioral health, regional center (as appropriate), and other partners, with expertise in prevention and treatment of child abuse and neglect.
 - As a best practice, **the county placing agency** should document the good faith effort to implement the recommendations of the State TA team.
 - Obtain written approval of the request for the CDSS to certify the identified OOSRF for the specific child from the deputy director or director of the county child welfare agency or chief probation officer ([WIC section 16010.9\(e\)](#)).

4. As a best practice, **the county placing agency** should also notify the County Mental Health Plan of the county's intent to seek certification of an OOSRF from CDSS for placement of a child.
5. **The county placing agency** will send a request to the Out-of-State Certification Unit (OSCU) within the Community Care Licensing Division of the CDSS for a child-specific certification. ([FAM section 7911.1\(c\).](#))
 - This request shall contain documentation that the county placing agency has completed the requirements of [WIC section 16010.9 subdivision \(c\) and \(d\).](#)
 - This request will be signed and approved by the deputy director or director of the county child welfare agency or the chief probation officer of the county probation department. ([WIC section 16010.9\(e\).](#))
6. **The county placing agency** will contact the prospective OOSRF and encourage them to apply to CDSS to be certified to accept a specific child for placement.
7. The **OOSRF** may be issued a child-specific certification pursuant to [FAM section 7911.1.](#)
8. The **OOSRF** is required to cooperate during the child-specific certification process, including providing any of the documentation listed in [FAM section 7911.1\(c\)\(2\).](#) The certification process will include, but not be limited to, an on-site inspection, review of the OOSRF's license and licensing history in the state in which they are operating, and review of documentation related to mental health services by the OSCU. ([FAM section 7911.1\(c\)\(3\).](#))
9. The **OOSRF** is required to satisfy the licensing standards for an equivalent mental health program approval. These standards shall be satisfied if the State Department of Health Care Services determines that the OOSRF has an equivalent mental health program approval in the state in which it is operating. ([FAM section 7911.1\(d\).](#))
10. **The CDSS** will expedite the certification process and communicate regularly with the county placing agency regarding the process.
11. Upon certifying an OOSRF, **the CDSS** shall provide written documentation of the certification to the county placing agency. ([FAM section 7911.1\(c\)\(4\).](#))
12. **The county placing agency** shall submit a request to the juvenile court for an order authorizing placement of the child in the OOSRF pursuant to [WIC section 361.21](#) or [section 727.1](#), as applicable. The request must present evidence to the court of the following:
 - The OOSRF is licensed or certified for the placement of children by an agency of the state in which the child or nonminor dependent will be placed.
 - The OOSRF has been certified by the CDSS or is exempt from that certification pursuant to [FAM section 7911.1.](#)
 - The county placing agency has fulfilled its responsibilities as set forth in [WIC sections 4096](#) and [16010.9.](#)Only if the court determines all of these conditions have been satisfied may it authorize placement of the child in the OOSRF. ([WIC section 361.21\(a\)-\(a\)\(4\), 727.1\(b\)-\(b\)\(4\), 16010.9\(f\).](#))
13. **The county placing agency** will send the ICPC Unit verification that they have complied with the requirements of [WIC section 16010.9](#), documentation that OSCU

has certified the OOS facility, including documentation of director approval, and a copy of the court order authorizing the child's placement ([FAM section 7911\(b\)\(1\)\(A\) and \(B\) and \(C\)](#).) The ICPC Unit will confirm receipt of the verification to the county placing agency within one (1) business day.

14. The **ICPC Unit** will verify within five (5) business days upon receipt of the verification that the requesting county placing agency has met the conditions listed in [FAM section 7911.1](#), and [WIC section 361.21](#) or [Section 727.1\(b\)](#), as applicable. The **ICPC Unit** will also verify within five (5) business days upon receipt of the verification that the county has fulfilled all responsibilities set forth in [WIC sections 4096 and 16010.9\(c\)\(1\)-\(2\)](#), as well as, on and after October 1, 2021, [WIC section 16010.9\(d\)](#).
 - Unless they have confirmed all conditions for OOSRF have been satisfied, the **Compact Administrator** is prohibited from requesting that the state in which the OOSRF is located approve placement of the child in the receiving state. ([FAM sections 7910\(b\)\(1\); 7911\(b\)\(1\)\(A\)-\(C\)](#).)
 - The **ICPC** unit will communicate with a county placing agency if all necessary documentation is not received from the county.
15. Within one (1) business day of confirmation that all conditions have been met, the **ICPC Unit** submits notice to the receiving state of the intent to place a dependent or ward in the receiving state ([FAM section 7901 \(Article 3 of the ICPC\); 7910\(b\)\(1\)](#).)

EXCEPTIONS

The certification requirements of this section shall not impact any of the following ([FAM section 7911.1\(h\)\(1\)](#)):

- Placement of emotionally disturbed children made pursuant to an individualized education program developed pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) if the placement is not funded with federal or state foster care funds.
- Placement of Indian children, as defined by the Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et. seq.) and Section 224.1 of the Welfare and Institutions Code.

EXPIRATION TIMELINES

AB 153 phases out the use of OOSRF as placement options for dependents and wards as follows:

- On and after July 1, 2022, **county placing agencies or probation departments** shall not make new placements in out-of-state residential facilities, except for placements described in subdivision (h) of Section 7911.1. ([FAM section 7911\(a\)\(2\)](#).)
- On and after July 1, 2022, **CDSS** is prohibited from certifying any new out-of-state residential facilities for placement by county placing agencies or probation departments. ([FAM section 7911\(c\)](#).)

- On and after July 1, 2022, the **Compact Administrator** is prohibited from seeking approval from receiving states of any new placements by county child welfare agencies or probation departments in out-of-state residential facilities. ([FAM section 7911\(c\).](#))
- By January 1, 2023, all OOSRF shall be decertified and all children placed in those facilities must have been returned to California. ([FAM section 7911\(d\).](#))

REPORTS TO THE LEGISLATURE

AB 153 included requirements that the CDSS report to the relevant policy and fiscal committees certain data related to the changes in and implementation of the law regarding placement in OOSRF. These reports “shall not include any demographic data that would permit identification of any child or nonminor dependent.” ([FAM section 7912\(b\)\(3\).](#)) These reporting requirements are as follows:

1. On or before September 1, 2021, and each month thereafter the **CDSS** is required to report to the Legislature the number of children placed by a county placing agency or probation department in OOSRFs. ([FAM section 7912\(b\)\(1\).](#)) The **CDSS** will prepare and submit these reports.
2. On or before January 1, 2022, and every six months thereafter until facilities are decertified and all children have been returned to California no later than January 1, 2023, the **CDSS**, in consultation with the counties, is required to report on the capacity for serving all child welfare and probation-supervised foster children within California or in home-based settings outside of the state. ([FAM section 7912\(b\)\(2\).](#)) Per [FAM section 7912\(b\)\(2\)](#), these reports are required to include the following data:
 - The number of children served by OOSRFs, disaggregated by child welfare services agency and probation department supervision.
 - Data measures related to ongoing transition planning efforts, including child and family team meetings, child-specific recruitment and family finding and engagement activities, and multiagency care coordination efforts that occurred for each child before and during placement in the OOSRF.
 - Any county with a child placed out of state will report the following data to the Department’s Systems of Care Branch (SOC) on a monthly basis for each child. This data shall be reported to SOC by contacting CCR@dss.ca.gov:
 - Data regarding the date the child is placed and anticipated duration of the treatment.
 - Data related to the continuing necessity for and appropriateness of placement in an OOSRF.
 - Data related to engagement with the child and family team, including frequency and agreed upon action plans from the Child and Family Team.
 - Data related to steps taken to identify placement and transition the youth to a lower level of care or in-state placement.
 - Data related to the services that a youth is receiving within the out-of-state facility.

- Data related to engagement with the family to identify supports and needs.
- Data related to current treatment provided to the youth in their placement.
- The lengths of stay of each child placed in an out-of-state residential facility by a California child welfare agency or probation department.
- The total number of all serious incident reports received for the out-of-state residential facilities, and descriptions of the types of incidents reported.
- The total number of serious incident reports received for the California children placed in out-of-state residential facilities, and descriptions of the types of incidents reported.

Please direct any questions regarding the out-of-state certification process to the OSCU at (424) 301-3034 or CCLOutofStateGH@dss.ca.gov. The mailing address for the OSCU is 744 P Street, MS 9-15-54, Sacramento, CA 95814. Please direct any OOSRF certification policy questions to the Children's Residential Program Policy Unit at 916-651-5380 or CRPOPpolicy@dss.ca.gov.

Please direct any questions regarding the Child Specific Technical Assistance process to SOCTACALLs@dss.ca.gov.

Please direct any questions regarding qualified residential treatment programs, the Interim Licensing Standards, or data measures to CCR@dss.ca.gov.

Please direct any questions regarding ICPC to (916) 651-7465 or ICPC@dss.ca.gov. The mailing address is 744 P Street, MS 8-13-78, Sacramento, CA 95814.

To access [all PINs published by the CDSS Children's Residential Program](https://www.cdss.ca.gov/inforesources/community-care-licensing/policy/provider-information-notice/childrens-residential), please visit <https://www.cdss.ca.gov/inforesources/community-care-licensing/policy/provider-information-notice/childrens-residential>.

To access [all published ACLs and ACINs](https://www.cdss.ca.gov/inforesources/letters-and-notices), please visit <https://www.cdss.ca.gov/inforesources/letters-and-notices>.

Sincerely,

Original Document Signed By

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