

December 15, 2023

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

**ALL COUNTY LETTER. 23-104
PROVIDER INFORMATION NOTICE NO. 23-17-CRP**

The purpose of this All County Letter (ACL)/Provider Information Notice (PIN) is to provide additional guidance and answers to Frequently Asked Questions to county child welfare departments, probation departments, foster family agencies, and all federally recognized tribes regarding the implementation of Assembly Bill 366, which prohibits the physical capacity of a home from being the sole reason to deny placement of a sibling group, if each child in the home has an age-appropriate place to sleep and there are no other safety risks.



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GAVIN NEWSOM
GOVERNOR

December 15, 2023

ALL COUNTY LETTER NO. 23-104
PROVIDER INFORMATION NOTICE NO. 23-17-CRP

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CHILD WELFARE PROGRAM MANAGERS
ALL FOSTER FAMILY AGENCY DIRECTORS
ALL CDSS ADOPTION REGIONAL OFFICES
ALL FOSTER CARE ELIGIBILITY SUPERVISORS
ALL CHIEF PROBATION OFFICERS
ALL FEDERALLY RECOGNIZED TRIBES

SUBJECT: ANSWERS TO FREQUENTLY ASKED QUESTIONS FOR
IMPLEMENTING ASSEMBLY BILL 366: FOSTER CARE AND
PLACEMENT OF SIBLINGS

REFERENCE: [ASSEMBLY BILL 366 \(STATUTES OF 2021, CHAPTER 581\);](#)
[WELFARE AND INSTITUTIONS CODE\(WIC\) SECTION 362.1,](#)
[WIC SECTION 16002, WIC SECTION 16004.5,](#)
[WIC SECTION 16005, WIC SECTION 16010.6,](#)
[WIC SECTION 16519.5 AND WIC SECTION 17732 \(a\)\(1\);](#)
[ALL COUNTY LETTER \(ACL\)13-33, ACL 15-100, AND ACL 16-16.](#)

PURPOSE

The purpose of this All County Letter (ACL)/Provider Information Notice (PIN) is to provide additional guidance and answers to Frequently Asked Questions (FAQs) to county child welfare departments, probation departments, foster family agencies (FFAs), and all federally recognized tribes regarding the implementation of [Assembly Bill 366 \(Statutes of 2021, Chapter 581\)](#), which prohibits the physical capacity of a home from being the sole reason to deny placement of a sibling group if each child in the home has an age-appropriate place to sleep and there are no other safety risks. [Welfare and Institutions Code \(WIC\) section 16002, WIC 16004.5, and WIC 16005](#) outline the importance of maintaining and preserving sibling relationships and

connections when determining out-of-home placement. It is in the best interest of the sibling group to be placed together as soon as possible rather than later in the case.

FAQS

1. Q: Can a sibling set, or child/nonminor dependent who is a sibling of a child already placed in the Resource Family home, be placed in the home if the placement would put the family over their approved capacity listed on the Resource Family Approval Certificate - RFA 05A, LIC 05A, or equivalent form?

A: Yes. A Resource Family's home capacity may be increased or decreased at any point in time if it is determined necessary based on factors specified in the [Resource Family Approval \(RFA\) Written Directives \(WD\) Section 10-04\(b\)](#) and the [Foster Family Agency \(FFA\) Interim Licensing Standards \(ILS\) Section 88362\(b\)](#), as well as due to the placement of an additional child or nonminor dependent in the home.*

2. Q: Can a Specialized Resource Family accept more than two children or nonminor dependents if the additional children or nonminor dependents are siblings of a child already placed in the home?

A: It depends on the circumstances. A Specialized Resource Family home may accept a third child with or without special health care needs if a maximum capacity (including adopted, biological, and guardianship children, and children of a minor or nonminor dependent parent residing in the home), does not exceed six children, per WD Section 11.1-01(c) and ILS Section 88510.1(c), and the conditions (A) – (C) of [WIC section 17732 \(a\)\(1\)](#) have been met.

3. Q: Can a sibling set or child/nonminor dependent who is a sibling of a child already placed with an Intensive Services Foster Care (ISFC) Resource Family, be placed in the home if the home would have more than two eligible children or more than three foster children?

A: Yes. Per [WIC section 18360.15\(c\)](#), additional foster children or nonminor dependents may be placed in the home due to compelling circumstances including, to place a sibling group together when at least one sibling is an eligible child or was previously an eligible child in the home. However, the number of eligible children shall not exceed three unless all of the eligible children are related, and the requirements of WIC section 18360.15(c), paragraphs (1)-(4) are also met prior to placement.

4. Q: If a Resource Family home is at the maximum capacity of six children/nonminor dependents (related or unrelated), can additional children/nonminor dependents of sibling groups be placed in the home? *

A: Yes. If the Resource Family is not a Specialized Resource Family or an ISFC Resource Family, per RFA [WD section 10-04\(a\)\(2\)](#) and FFA [ILS Section 88362\(a\)\(1\)](#), under specific conditions, a capacity may exceed six for any of the following reasons:

- 1) To allow sibling groups to remain together.
- 2) To allow a minor or nonminor dependent parent to remain with their child.
- 3) To allow a child or nonminor dependent who has an established relationship with a Resource Family to remain with that family.

5. Q: If placement of a sibling, or siblings, together with a child or nonminor dependent who is already placed in a Resource Family home causes the home to be over the capacity noted on the RFA 05A, LIC 05A, or equivalent forms, does the county or FFA need to increase the capacity and how is that done?

A: (for Counties): It depends on the circumstances.

- If placement of a child or nonminor dependent causes the Resource Family home to be over the capacity noted on the family's Resource Family Approval Certificate RFA 05A or equivalent form, and the RFA worker agrees with the increase, considering the factors outlined in Written Directives Section 10-04(b), a new RFA 05A or equivalent form shall be completed to represent the new capacity determination and shall be issued to the Resource Family.*
- If placement of a child or nonminor dependent causes the Resource Family home to be over the capacity noted on the family's Resource Family Approval Certificate (RFA 05A or equivalent form), and the RFA worker does not agree with the increase, considering the factors outlined in WD Section 10-04(b), the capacity listed on the RFA 05A or equivalent form would not change and a new RFA 05A or equivalent form would not need to be completed. In addition, if the applicant or Resource Family disagrees with the capacity determination, the procedures in the WD Section 10-04(e) related to the Resource Family's right to request a formal county review should be followed.*

A: (for FFAs):

- If placement of a child or nonminor dependent causes the capacity to be over the capacity noted on the family's Resource Family Approval Certificate (LIC 05A or equivalent form), the FFA shall obtain an approved Documented Alternative Plan (DAP), as specified in FFA ILS Section 88347. *
- If a child or nonminor dependent in ISFC home is placed over capacity based on compelling circumstances per the FFA ILS section 88710.1(b)(4), a DAP shall not apply and the requirements in FFA ILS section 88710.1(b)(5) shall be met.

6. Q: Does a Resource Family home that is over capacity jeopardize foster care maintenance payments for the child?

A: No. If a child is a dependent or ward of the juvenile court who is placed in an approved Resource Family home and supervised by the county child welfare agency or probation department, the capacity of the home does not affect the child's eligibility for foster care maintenance payments.

7. Q: What is the definition of sibling?

A: "Sibling" means two or more children or nonminor dependents related by blood, adoption, or affinity through a common legal or biological parent as defined in [WIC sections 362.1\(c\)](#) and [WIC 16002\(g\)](#). Please see [ACL 16-16](#) for more information regarding the definition of sibling.

8. Q: If the capacity of a Resource Family home changes, based on the placement of a sibling set, does an approval update need to be completed?

A: It depends on the circumstances. Although a new Resource Family Approval Certificate (RFA 05A, LIC 05A, or equivalent forms) would be required, it is ultimately at the county's or FFA's discretion whether an approval update must be completed.

For example:

- 1) If the county or FFA determines that the capacity change is the result of a "significant change" in the Resource Family's circumstances, a county or FFA shall complete an update per WD Section 9-02(e) or ILS Section 88371(e).
- 2) If the capacity was changed due to an additional room being added to the home, a county or FFA may determine there is no significant change and therefore, no approval update would be required. In this case, an RFA 05A, LIC 05A, or equivalent forms, as well as a Home Health and Safety Assessment (RFA 03 or LIC 03) must be completed due to the change of bedroom space in the home.
- 3) If the capacity was changed due to an additional bed being added to one of the bedrooms, a county or FFA may determine that neither an update nor a RFA 03 or LIC 03 would be required.

9. Q: Are biological or adopted children considered when determining the capacity of a Resource Family home?

A: Yes. The number of all children and nonminor dependents, including any adopted, biological, step or half-siblings, or guardianship children, as well as a child or children of a minor or nonminor dependent residing in the home, should be considered

when determining the capacity of the home, as indicated in WD Section 10-04(a)(1) and (b)(2) and FFA ILS Section 88362(a)(1) and (b)(2).

For example: If an RFA applicant has two biological children residing in the home, the maximum capacity of the home would be four (considering the home has the physical space and the RFA worker has assessed that the family is capable of caring for a total of six children).

*As a best practice, when a placement worker is considering placement in a home that would be over capacity, it is highly recommended that the placement worker contacts the RFA worker, and the tribal representative in the case of an Indian child, as soon as possible to collaborate and assess the appropriateness of the additional placement in that home. The sharing of information prior to placement may avoid a removal of the child or nonminor dependent after being placed with the family.

If the Resource Family home is also a Tribally Approved Home (TAH), the RFA worker must consult and collaborate with the tribe or tribal organization that approved the home to ensure that the additional placement would not put the family over their approved capacity as a TAH, regardless of whether the additional child or nonminor dependent is an Indian child. The standards for TAHs are determined by the tribe or tribal organization issuing the approval.

If you have any questions or need additional guidance regarding the information in this letter, please contact the RFA Policy Unit at (916) 651-1101 or via email at RFA@dss.ca.gov. For licensing questions, please contact CRPOPpolicy@dss.ca.gov.

Sincerely,

Original Document Signed By

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Children and Family Services Division

KEVIN GAINES
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