



CDSS

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STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**

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EDMUND G. BROWN JR.  
GOVERNOR

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

September 30, 2016

ALL COUNTY LETTER NO. 16-82

TO: ALL COUNTY CHILD WELFARE DIRECTORS  
 ALL COUNTY CHILD WELFARE PROGRAM MANAGERS  
 ALL CHIEF PROBATION OFFICERS  
 ALL FOSTER FAMILY AGENCY DIRECTORS  
 ALL GROUP HOME DIRECTORS  
 ALL TITLE IV-E AGREEMENT TRIBES  
 ALL ADOPTION REGIONAL AND FIELD OFFICES  
 ALL JUDICIAL COUNCIL STAFF

SUBJECT: REPRODUCTIVE AND SEXUAL HEALTH CARE AND RELATED RIGHTS FOR YOUTH AND NON-MINOR DEPENDENTS (NMD) IN FOSTER CARE

REFERENCE: SENATE BILL [528](#) (CHAPTER 338, STATUTES OF 2013); WELFARE AND INSTITUTIONS CODE (W&IC) SECTIONS [369](#), [16001.9](#), [16002.5](#) AND [16521.5](#) ; ALL COUNTY LETTERS (ACL) [02-54](#), [08-51](#) AND [14-38](#); ALL COUNTY INFORMATION NOTICE [1-60-15](#)

The purpose of this ACL is to provide county child welfare agencies, probation departments and other relevant parties with information and guidance related to legislative changes and existing law on the reproductive and sexual health care and related rights of youth and Non-Minor Dependents (NMDs) in foster care. Unless otherwise noted, references to foster youth in this ACL include NMDs, as well as wards who are the subject of a petition filed pursuant to the W&IC section 602.

**Background**

Researchers at the Chapin Hall, University of Chicago, interviewed approximately 2,500 current and former foster youth who had resided in 51 of California’s 58 counties. This research, reported in the *California Youth Transitions to Adulthood (Cal YOUTH)*, found that approximately 27 percent of young women and 10 percent of young men reported

having a child by the age of 19. According to the study, 49.3 percent of female youth had experienced a pregnancy by 20 years-of-age. When female youth were asked about their desire to become pregnant, about one-third reported they definitely did not want to have a baby and more than one-quarter said they did not want to become pregnant at that time. In a 2013 publication entitled "*California's Most Vulnerable Parents: When Maltreated Children Have Children*," it was reported that more than a third of California young women who grew up in foster care were mothers by age 21.

### **Reproductive and Sexual Health Care and Related Rights for Youth and NMDs in Foster Care**

Youth and NMDs in foster care are entitled to certain reproductive and sexual health care rights. It is important that foster youth and the parties who serve these youth, such as county social workers, probation officers, Court Appointed Special Advocates, foster family agency and group home staff, caregivers and other service providers are aware of these rights and respect the youth's exercise of their rights.

County social workers and probation officers shall inform foster youth in a manner appropriate to the age or developmental level of the youth of their rights, including their reproductive and sexual health care rights, upon entry into foster care and at least once every six months at the time of a regularly scheduled placement agency contact.<sup>1</sup> County social workers and probation officers shall provide youth and NMDs with access to age-appropriate, medically accurate information about sexual development, reproductive and sexual health care, the prevention of unplanned pregnancies, abstinence, use of birth control, abortion, and the prevention and treatment of sexually transmitted infections (STIs).<sup>2</sup> Care providers, such as foster parents and group home providers, in consultation with the county social worker or probation officer, shall be responsible for ensuring that adolescents including NMDs, who remain in long-term foster care, receive age-appropriate, medically accurate, culturally sensitive pregnancy prevention information.<sup>3</sup>

The following is a list of certain reproductive and sexual health care and related rights that foster youth have and are entitled to have respected, which are within the oversight and enforcement authority of the California Department of Social Services, as well as citations to various laws that pertain to these rights:

1. The right to receive medical services, including reproductive and sexual health care.<sup>4</sup>

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<sup>1</sup> W&IC section 16501.1, subdivision (g)(4).

<sup>2</sup> W&IC sections 369(h) and 16001.9, subdivision (a)(27).

<sup>3</sup> W&IC section 16521.5, subdivision (a).

<sup>4</sup> W&IC section 16001.9, subdivision (a)(4).

2. The right to consent to or decline medical care (without need for consent from a parent, caregiver, guardian, social worker, probation officer, court, or authorized representative) for:<sup>5</sup>
  - a) The prevention or treatment of pregnancy, including contraception, at any age<sup>6</sup>, (except sterilization).<sup>7</sup>
  - b) An abortion, at any age.<sup>8</sup>
  - c) Diagnosis and treatment of sexual assault, at any age.<sup>9</sup>
  - d) The prevention, diagnosis, and treatment of STIs, at age 12 or older.<sup>10</sup>

If the foster youth has the right to personally consent to medical services, such services shall be provided confidentially and maintained as confidential between the provider and foster youth to the extent required by the Health Insurance Portability and Accountability Act and the California Confidentiality of Medical Information Act,<sup>11</sup> unless disclosed through written consent of the foster youth or through a court order. When a youth has the right to consent, there shall be privacy for examination or treatment by a medical provider, unless the youth specifically requests otherwise.<sup>12</sup>

3. The right to have access to age-appropriate, medically accurate information about reproductive and sexual health care, the prevention of unplanned pregnancy including abstinence and contraception, abortion care, pregnancy services, and the prevention, diagnosis, and treatment of STIs, including but not limited to the availability of the Human Papillomavirus (HPV) vaccination.<sup>13</sup>
4. The right to be provided transportation to reproductive and sexual health-related services.<sup>14</sup>

Many reproductive health services are time-sensitive (e.g. emergency contraception, abortion); therefore, transportation must be provided in a timely manner in order to meet the requirement.

5. The right to obtain, possess and use the contraception of his or her choice, including condoms.<sup>15</sup>

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<sup>5</sup> W&IC section 369, subdivision. (h). The NMDs have the medical consent rights of other adults, W&IC section 303, subdivision (d).

<sup>6</sup> Family Code section 6925.

<sup>7</sup> Family Code section 6925, subdivision (b)(1).

<sup>8</sup> Family Code section 6925; The right to consent to an abortion at any age was established by the California Supreme Court in *American Academy of Pediatrics v. Lungren* (1997) 16 Cal.4th 307.

<sup>9</sup> Family Code section 6928, subdivision (b).

<sup>10</sup> Family Code section 6926, subdivision (b).

<sup>11</sup> Public Law 104-191, Civil Code section 56 et seq., See, Health & Safety Code, sections 123110 and 123115.

<sup>12</sup> Id.

<sup>13</sup> W&IC sections 16001.9, subdivision (a)(27) and 369, subdivision (h).

<sup>14</sup> W&IC section 16001.9, subdivision (a)(4); Title 22 California Code of Regulations (CCR) sections 8075, subdivision (a) and 89374, subdivision (c)(1).

6. The right to have private storage space and to be free from unreasonable searches of his or her personal belongings.<sup>16</sup> Contraception cannot be taken away as part of a group home discipline program or for religious beliefs, personal biases and judgments of another person.<sup>17</sup>
7. The right to choose his or her own health care provider, if payment for the health service is authorized under applicable Medicaid law.<sup>18</sup>
8. The right to fair and equal access to all available services, placement, care, treatment and benefits, and to not be subjected to discrimination or harassment based on actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or Human Immunodeficiency Virus (HIV) status.<sup>19</sup>
9. The right to independently contact state agencies, including the Community Care Licensing Division of the California Department of Social Services and the state Foster Care Ombudsperson, regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.<sup>20</sup>
10. Depending on the type of licensed home or facility and age of the foster youth, personal rights are to be posted and/or explained in an age or developmentally appropriate manner, and provided to the foster youth.<sup>21</sup>

For questions regarding the content of this letter, please contact the Placement Services and Support Unit at (916) 657-1858 or via email at [SexualDevWorkgroup@dss.ca.gov](mailto:SexualDevWorkgroup@dss.ca.gov).

Sincerely,

***Original Document Signed By:***

GREGORY E. ROSE  
Deputy Director  
Children and Family Services Division

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<sup>15</sup> Family Code section 6925 and W&IC section 369, subdivision. (h).

<sup>16</sup> W&IC section 16001.9, subdivision (a)(18) and subdivision (a)(21).

<sup>17</sup> Title 22 CCR section 84072, subdivision (c)(9).

<sup>18</sup> 42 United States Code sections 1396a, subdivision (23)(B) and 1396n, subdivision (b).

<sup>19</sup> W&IC section 16001.9, subdivision (a)(23).

<sup>20</sup> W&IC section 16001.9, subdivision (a)(8).

<sup>21</sup> W&IC section 16001.9 and Title 22 CCR sections 83072, 84072, 86072 and 89372.