



CDSS

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REASON FOR THIS TRANSMITTAL

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

May 17, 2013

ALL COUNTY INFORMATION NOTICE NO. I-17-13

TO: ALL COUNTY WELFARE DIRECTORS
 ALL COUNTY CHILD WELFARE SERVICES PROGRAM MANAGERS
 ALL COUNTY CHIEF PROBATION OFFICERS
 ALL FOSTER FAMILY HOMES
 ALL FOSTER FAMILY AGENCIES
 ALL GROUP HOMES
 ALL TITLE IV-E TRIBES

SUBJECT: QUESTIONS AND ANSWERS (Q&A) REGARDING REASONABLE AND PRUDENT PARENT STANDARDS

REFERENCE: WELFARE AND INSTITUTIONS CODE (W&IC) SECTIONS (§) 362.04, 362.05, AND 727; ASSEMBLY BILL (AB) 408 (CHAPTER 813, STATUTES OF 2003), AB 2096 (CHAPTER 483, STATUTES OF 2008); SENATE BILL (SB) 358 (CHAPTER 628, STATUTES OF 2005); CALIFORNIA CODE OF REGULATIONS (CCR), TITLE 22, DIVISION 6, CHAPTER 9.5 FOSTER FAMILY HOMES; CCR TITLE 22, DIVISION 6, CHAPTER 5 GROUP HOMES; COMMUNITY CARE LICENSING (CCL) INFORMATION RELEASE NO. 2011-01, 2010-03, 2010-02, 2005-03 AND 2005-02; ALL COUNTY LETTERS (ACL) 05-39 AND 06-02; ALL COUNTY INFORMATION NOTICES (ACIN) I-80-05 AND I-78-01

This ACIN is to remind counties, caregivers, and licensees of the Reasonable and Prudent Parent Standard (RPPS), as it applies to a licensed foster family home or group home, a certified family home, and an approved relative and non-relative extended family member home. It addresses some of the most frequently asked questions as they relate to minor foster children. Many questions that have been asked in relation to RPPS relate to CCR Title 22, Foster Family Home (FFH) or Group Home (GH) regulations. Those questions are also being answered in this ACIN.

The enactment of AB 408 added section 362.05 to the W&IC establishing the RPPS. The RPPS is the standard characterized by careful and sensible parental decisions that maintain the foster child's health, safety, and best interests. This standard supports the

empowerment of a caregiver to exercise common sense and good judgment to assess circumstances and events in which a foster child may participate. The standard also enables participation by a foster child in age-appropriate extracurricular, enrichment, and social activities in order to improve the normalcy of life in foster care. The enactment of AB 2096 extended the RPPS to group homes (W&IC § 362.05(a), 727(a)(4)(A)).

A parent is often faced with decisions regarding his or her child's participation in activities, as is a caregiver or licensee. However, oftentimes, a foster child has been prohibited from participating in typical childhood activities unless certain requirements were met.

In applying the RPPS, a caregiver or licensee should:

- Have adequate information about the activity;
- Take reasonable steps to determine the appropriateness of an activity;
- Take into account any foreseeable risks; and
- Ask themselves the following questions:
 - Does this activity seem reasonable?
 - Is this activity age-appropriate? A caregiver or licensee should consider the foster child's maturity level, mental and physical health, and developmental level. (Age-appropriate is defined in the 22 CCR § 89201(a)(2) as "...activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity. Age appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for an age or age group.")
 - Are there foreseeable hazards?
 - Is there anything based upon the foster child's case history with the current caregiver or licensee (such as truancy or running away) to suggest that this activity would not be appropriate for the foster child?
 - Does this decision maintain the foster child's health, safety and best interests?
 - Does this activity assist in normalizing life in foster care?

When applying RPPS, if a caregiver or licensee has any questions or concerns, they should consult with the foster youth's social worker or probation officer.

FREQUENTLY ASKED QUESTIONS

General

- 1) Q. What is the “Reasonable and Prudent Parent Standard”?
 - A. The standard used by a caregiver or licensee that is characterized by careful and sensible parental decisions that maintains the foster child’s health, safety, and best interest (W&IC § 362.04(a)(2) and (c)).

Babysitting

- 1) Q. What is an “Occasional Short-Term Babysitter”?
 - A. “Occasional Short-Term Babysitter” means a person who cares for a foster child in or out of the caregiver’s licensed, certified, or approved home on an occasional basis for less than 24 hours at a time (22 CCR § 89378(a)(1)(A)(1)). Example: the caregiver has a date night out and has the grandparents watch the child from 4 P.M. that evening to 10 A.M. the following day.
- 2) Q. Does an occasional babysitter need to be fingerprinted by the county?
 - A. No, Health and Safety (H&S) Code § 1522(b)(3)(C) exempts an occasional short-term babysitter from undergoing a criminal record background check.
- 3) Q. Does the occasional sitter need Cardiopulmonary Resuscitation (CPR) training under RPPS?
 - A. No. The occasional short-term babysitter is not required by any departmental regulation to have CPR training. Acting as a reasonable and prudent parent, a caregiver who feels there is a condition where CPR may be needed should use a sitter who has CPR certification.
- 4) Q. Is a teenage foster child allowed to babysit a younger child in the home?
 - A. Yes. The teenage foster child may be under 18 years of age, but shall have the maturity, experience, and ability necessary to provide adequate care and supervision of a child (22 CCR § 89378(a)(1)(A)(3)). Under no circumstances shall a foster child be required to babysit (22 CCR § 89378(a)(1)(A)(3)(a)).
- 5) Q. Can I leave my foster child alone?
 - A. Yes. On an occasional basis, the caregiver is permitted to leave a foster child alone without adult supervision, but shall not leave a foster child unsupervised

overnight (22 CCR § 89378(a)(1)(D)). The caregiver shall apply RPPS to determine the appropriateness of leaving a foster child alone without adult supervision (22 CCR § 89377). The caregiver shall consider:

- a. The age, maturity, and developmental level of the foster child;
- b. The nature and inherent risk of harm; and
- c. The best interest of the foster child based on the information known by the caregiver (22 CCR § 89377(c)(1)-(3)).

If the foster child is left alone, the caregiver should ensure the following as specified in 22 CCR § 89378(a)(1)(D)2. a. i. through iii:

- a. The foster child knows where the emergency numbers are posted;
- b. The foster child knows emergency procedures; and
- c. The foster child knows where and how to contact the caregiver.

- 6) Q. Can a foster caregiver go on a getaway weekend and leave a foster child with a foster aunt and uncle and their children?
 - A. If a caregiver anticipates being absent from the home for longer than 24 hours, such as to go on a getaway weekend, the caregiver is permitted to arrange for:
 - a) An alternative caregiver, who provides care and supervision of the foster child in the caregiver's home on an occasional basis under the conditions specified in regulations (22 CCR § 89378(a)(1)(B)).
 - b) A licensed, approved, or certified caregiver who provides care and supervision of the foster child in the respite caregiver's home as temporary respite of parental duties that does not exceed 72 hours under the conditions specified in regulations (22 CCR § 89378(a)(1)(C)).
- 7) Q. Is there a 24-hour limit on participating in out-of-the-home activities, like a weekend camping trip supervised by a church or a weekend school event where the care providers are not present?
 - A. The regulations provide guidance that extracurricular, enrichment, and social activities may include, among other activities: sports, scouting, or 4-H activities, all of which could include activities that are out of the home or facility and exceed 24-hours in duration. There are no time restrictions in regulations that would preclude a foster child from participating in activities that are out-of-the-home or facility. The caregiver or licensee is required to apply RPPS by making careful and sensible parental decisions that maintain the foster child's health, safety, and best interest when making a decision as to whether the activity is an age and developmentally appropriate extracurricular, enrichment, or social activity (22 CCR § 89379(b) and § 84079(c)(2)).

- 8) Q. Can a foster caregiver bring a foster child to an event and leave the foster child with a supervising adult used by other parents in the community?
- A. Yes, if it is the opinion of the caregiver that the supervising adult is capable of providing care and supervision to the child (22 CCR § 89378(a)(1)(A)(2) and § 84079(c)(2)).
- 9) Q. If a relative caregiver hires an evening babysitter for two foster children, is it necessary to disclose that the children are in foster care?
- A. No. The RPPS allows for normalizing the foster child's life. It allows for the foster child to be treated as any other child. As for all children, the caregiver should make sure the babysitter knows how to contact the caregiver in case of an emergency (22 CCR § 89378(a)(1)(A)(4)).

Social Activities

- 1) Q. Can a foster child spend the night in an unlicensed facility, attend community events, or religious gatherings on their own?
- A. Yes. A foster child is entitled to participate in age and developmentally appropriate extracurricular, enrichment, and social activities (22 CCR § 89379, subsection (a) and § 84079(c)(1)) and may attend religious services and activities of his or her choice (W&IC § 16001.9(a)(10) and (13); 22 CCR § 89372(a) and § 84072(c)(23)).
- 2) Q. My foster child is a high school athlete, but has been in some trouble at home and school. Under RPPS, can I prevent him or her from attending extracurricular activities due to his or her behavior?
- A. While a foster parent may prevent a foster child from attending specific extracurricular activities as appropriate discipline for misbehavior, the frequency and scope of that discipline cannot result in effective denial of the foster child's right to participate in extracurricular activities. Additionally, restrictions on extracurricular activities should not be the only disciplinary options to be considered or utilized by a foster parent. Other disciplinary actions should be considered as an alternative to exclusion from extracurricular activities. For example: Your foster child attended a school dance and returned home past his/her curfew time and did not call to say he/she would be late. The foster caregiver could prohibit the child from going out with friends, television privileges, or social media participation for the next day because the child was grounded for coming in late the night before, so long as communication with the child's relatives, social workers, authorized

representatives, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers are not restricted.

- 3) Q. Can children and youth in foster care participate in social media websites such as MySpace, Facebook, and Twitter?
- A. Yes, but the caregiver or licensee may impose reasonable restrictions as specified in regulations. These restrictions may include restricting internet usage when appropriate (22 CCR § 89372(a)(5)(B)(5)) or prohibiting the use of entertainment devices (22 CCR § 84072.1, subsection (c)(4)).

Miscellaneous

- 1) Q. Does RPPS allow a child or youth in foster care to have piercings, tattoos, or permanent cosmetic application?
- A. The RPPS does not apply to these activities. Although getting a tattoo, body piercing, or permanent cosmetic application could be considered as typical teenage activities, H&S Code § 119302(a)-(e) pertains to the regulation of the body art industry and clarifies who can receive a tattoo, body piercing, or permanent cosmetic application from a vendor pursuant to sections 652 and 653 of the Penal Code. However, a caregiver or licensee is not authorized to give consent for a foster child under the age of 18 to obtain a tattoo, body piercing, or permanent cosmetics application (H&S Code § 119302(a) and (b)).
- 2) Q. My foster child has a cell phone that was purchased with his or her own money from a part time job, but he or she does not follow the rules that we set for cell phones in our house. Under RPPS, am I allowed to remove or take away his or her cell phone?
- A. No. However, the caregiver or licensee may apply reasonable restrictions to this activity. Restrictions may be imposed by the caregiver, licensee, social worker, or probation officer on calls and correspondence. No restrictions shall be applied to telephone calls, mail, and electronic communication with a foster child's relatives, unless prohibited by court order, or with social workers, authorized representatives, attorneys, foster youth advocates and supporters, CASA, probation officers, the Community Care Licensing Division, or the State Foster Care Ombudsperson (W&IC § 16001.9(a)(8); 22 CCR, § 89372(a)(5)(A)-(D) and § 84072(c)(11)(A) – (C)).

- 3) Q. Can a foster child use birth control?
- A. Yes. Family Code § 6925(a) states that a minor may consent to medical care related to the prevention or treatment of pregnancy.
- 4) Q. Can I utilize RPPS as many hours as I want to per week or month?
- A. The RPPS is law that guides a caregiver or licensee in making decisions to determine whether it is age and developmentally appropriate for a foster child to participate in an activity. There is no restriction on the amount of time a caregiver or licensee spends using RPPS.
- 5) Q. If the foster caregiver and social worker or probation officer disagrees about an activity for a foster child, does the social worker or probation officer have the final say?
- A. No. However, a decision based on RPPS shall not contradict court orders or the needs and services plan of a foster child (22 CCR § 89377(b) and § 84067(c)).
- The child welfare agency or probation department has care, custody, and control of the foster child as ordered by the court, and assumes the ultimate responsibility for the health and safety of the foster child. The social worker or probation officer for the foster child may cite a reason for the denial of participation in the activity. If there is disagreement, the social worker's or probation officer's supervisor or the attorney for the foster child may intervene and discuss participation in the activity with the caregiver and social worker or probation officer for the foster child.
- 6) Q. If my foster child gets hurt while under my supervision or in an activity that I have given him or her permission to participate in, will I be cited for incorrectly applying RPPS?
- A. Every caregiver or licensee has to apply RPPS when making the decision as to whether or not an activity is safe and enriching to a foster child. When necessary, a caregiver or licensee must be prepared to demonstrate his or her determinations in applying RPPS to the licensing agency. If RPPS is not applied in compliance with the 22 CCR § 89377 or § 84067, the licensing agency may issue a citation.
- 7) Q. Can I require my foster care child to perform household chores such as vacuuming, dusting, dishwashing, and bathroom scrubbing?

- A. Yes, so long as the household chore is age and developmentally appropriate and it does not pose unreasonable hazards to the child. The foster parent should not impose excessive or a disproportionate amount of chores on the foster child, as by doing so the foster parent could violate the foster child's personal rights.

Travel

- 1) Q. Can children and youth in foster care travel out of the county or with teams as part of their participation in a sport without going to court?
 - A. Yes. The ACIN No. I-78-01, dated September 18, 2001, encouraged counties to adopt flexible travel policies that enhanced the ability of a foster child to participate in extracurricular and social activities. However, judicial approval may be warranted for trips of great length or duration. The foster child may not travel out of the county if jurisdiction has not been established.

If you have any questions regarding this ACIN, please contact the Foster Care Support Services Bureau at (916) 651-7465. A caregiver or licensee with questions or concerns may call the Foster Care Ombudsman's Office at (877) 846-1602 or contact their local licensing office for assistance.

Sincerely,

Original Document Signed By:

KAREN B. GUNDERSON, Chief
Child and Youth Permanency Branch
Children and Family Services Division