DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, California 95814

July 18, 2002

REASON FOR THIS TRANSMITTAL

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

ALL COUNTY LETTER NO. 02-54

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY PROBATION OFFICERS
ALL LOCAL MENTAL HEALTH DIRECTORS
ALL COUNTY INDEPENDENT LIVING COORDINATORS
ALL FOSTER CARE EDUCATION COORDINATORS OF THE CALIFORNIA COMMUNITY COLLEGES
ALL TRANSITIONAL HOUSING PLACEMENT PROGRAM PROVIDERS
ALL GROUP HOME PROVIDERS
ALL FOSTER FAMILY HOMES
ALL FOSTER FAMILY AGENCIES
CALIFORNIA STATE CARE PROVIDERS ASSOCIATION
CALIFORNIA STATE FOSTER PARENT ASSOCIATION
CALIFORNIA ALLIANCE OF CHILDREN AND FAMILY SERVICES

SUBJECT: RIGHTS OF CHILDREN IN OUT-OF-HOME PLACEMENT

REFERENCES: AB 899 (Chapter 683, Statutes of 2001); ALL COUNTY INFORMATION NOTICE NO. I-104-01; ALL COUNTY LETTER NO. 00-58

The purpose of this All County Letter (ACL) is to notify you of the enactment of AB 899 regarding the personal rights of children in out-of-home care. AB 899 adds Section 1530.91 to the Health and Safety Code (H&SC), amends Sections 16164 and 16501.1 of the Welfare and Institutions Code (WIC), and adds WIC Sections 27 and 16001.9.

Rights of Children in Out of Home Care

WIC Section 16001.9(a) provides that all children in foster care have the personal rights listed in this Section (see enclosure). Most of these rights are already afforded to children in out-of-home care by Title 22 of the California Code of Regulations (e.g., the right to be accorded safe, healthful, and comfortable accommodations). WIC Section 16001.9(b) specifies that these rights do not require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement. In AB 899, the Legislature declared its intent that these rights not be infringed upon and urged counties and foster care providers to preserve the rights of children in out-of-home care.

The Office of the State Foster Care Ombudsman Requirements

H&SC Section 1530.91 requires the Office of the State Foster Care Ombudsman ("the Office") to design posters that list the rights of children in out-of-home care as set forth in WIC Section 16001.9(a). Consistent with AB 899, the Office will distribute these posters to all facilities in California licensed to provide care for six or more foster children. Additionally, the Office has developed brochures that contain the same information regarding personal rights that will soon be available (see Distribution of Posters and Brochures, below). WIC Section 16164 permits the Office, counties, foster care providers, and others to use the posters and brochures in carrying out their responsibilities to inform foster children of their rights.

As a reminder, the Office of the Foster Care Ombudsman is responsible for investigating and attempting to resolve complaints by or on behalf of children and youth placed in foster care related to their care, placement or services. To meet this requirement, the Ombudsman Office maintains a toll-free number to be used for filing complaints or requesting information (1-877-846-1602) and receives email messages at fosteryouthhelp@dss.ca.gov. Please see ACL 00-58 for additional information on the Office.

Provider Requirements

For facilities licensed to provide foster care for less than six children, H&SC Section 1530.91(a) requires that every foster care provider give each school age child who is in foster care an orientation that includes an explanation of the child's rights as listed in WIC Section 16001.9. The orientation must be appropriate for the child's age and developmental level. Providers must also provide the orientation to the child's authorized representative as defined in regulations.

H&SC Section 1530.91(b) requires any facility licensed to provide care for six or more foster children to post a listing of foster children's personal rights as specified in WIC Section 16001.9. As indicated above, the Office has developed a poster listing these rights and will provide them to each facility subject to this provision. Additionally, brochures may be ordered for each child (see Distribution of Posters and Brochures below).

County Placement Agency Requirements

WIC Section 16501.1 requires county placement workers to inform children in out-of-home placement of their personal rights at least every six months at the time of a regularly scheduled contact. Again, the information must be provided in an age-appropriate manner consistent with the child's developmental level.

Consistent with newly added WIC Section 27, the CDSS is in the process of revising Manual of Policies and Procedures for Child Welfare Services Division 31 and Title 22 regulations to include these new requirements and rights.

Distribution of Posters and Brochures

Additional copies of the posters and brochures may be ordered in the usual manner via the County Forms Catalog. This is available in Adobe Acrobat PDF format on the CDSS World Wide Web server at: http://www.dss.cahwnet.gov/gov/cdssweb/On-lineFor_271.htm. A copy of the GEN 727B, County Forms Order, can also be found at this Web location. Copies of the County Forms Catalog will continue to be made available from the Forms Management Unit at (916) 657-1907. (See All County Information Notice I-104-01 for additional information on ordering forms.) In addition, camera-ready copies of the poster and brochure may be downloaded by accessing www.fosteryouthhelp.ca.gov, the Foster Care Ombudsman website.

If you have any questions regarding the rights of children in out-of-home care, the posters, or brochures, please contact the Office of the State Foster Care Ombudsman at (916) 651-6560 or toll-free at (877) 846-1602.

Sincerely,

Original Document Signed By

Sylvia Pizzini
Deputy Director
Children & Family Services Division

Enclosure

Section 16001.9 of the Welfare and Institutions Code reads:

(a) It is the policy of the state that all children in foster care shall have the following rights:

(1) To live in a safe, healthy, and comfortable home where he or she is treated with respect.
(2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.
(3) To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.
(4) To receive medical, dental, vision, and mental health services.
(5) To be free of the administration of medication or chemical substances, unless authorized by a physician.
(6) To contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers.
(7) To visit and contact brothers and sisters, unless prohibited by court order.
(8) To contact the Community Care Licensing Division of the State Department of Social Services or 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.
(9) To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.
(10) To attend religious services and activities of his or her choice.
(11) To maintain an emancipation bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.
(12) To not be locked in any room, building, or facility premises, unless placed in a community treatment facility.
(13) To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level.
(14) To work and develop job skills at an age-appropriate level that is consistent with state law.
(15) To have social contacts with people outside of the foster care system, such as teachers, church members, mentors, and friends.
(16) To attend Independent Living Program classes and activities if he or she meets age requirements.
(17) To attend court hearings and speak to the judge.
(18) To have storage space for private use.
(19) To review his or her own case plan if he or she is over 12 years of age and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.
(20) To be free from unreasonable searches of personal belongings.
(21) To confidentiality of all juvenile court records consistent with existing law.

(b) Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.