



CDSS

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October 1, 2018

Ms. Kathleen McHugh  
Director, Policy Division, Children's Bureau  
Administration for Children and Families  
United States Department of Health and Human Services  
330 C Street, S.W.  
Washington, DC 20024

Subject: COMMENTS RELATED TO THE PROPOSED NATIONAL MODEL  
FOSTER CARE LICENSING STANDARDS IN ACCORDANCE WITH  
THE FAMILY FIRST PREVENTION SERVICES ACT (FFPSA) OF 2018

Dear Ms. McHugh:

On August 1, 2018, the Children's Bureau (CB) within the Health and Human Services (HHS) Administration for Children and Families, released a proposed set of model licensing standards as mandated by FFPSA and is soliciting comments from States and tribes. The California Department of Social Services (CDSS) has reviewed the proposed standards and has solicited feedback from stakeholders including county representatives, licensed Foster Family Agencies (FFA), and tribal representatives that has been incorporated in this summary. Comments provided are the topics where CDSS is concerned with the potential negative impact the proposed standards would have on the diverse population of applicants and Resource Families in California, particularly relatives applying to care for a relative child currently in the child welfare system. Below are the areas CDSS has comments related to the proposed standards:

A. Foster Home Eligibility

a) Threshold Requirements: We request that HHS consider the diverse population of California including the numerous primary languages spoken in homes, particularly of the relatives applying to care for their relative children and recommend that the proposed national model exclude the requirement regarding an applicant's literacy and communication abilities. The proposed national model requires that an applicant must be able to communicate with the child in the child's own language, as well as with the agency and service providers. CDSS is concerned regarding the negative impact that this requirement would have on relatives who are otherwise capable of caring for a child but speak a different language than the relative child. The ability to care for a child is not dependent upon an applicant's ability to speak, read, and write in the language of the community. This requirement would have a negative impact on the number of eligible applicants in California because of the prevalence of other primary languages, besides English, spoken. According to 2016 [US Census Data](#), the percentage of people in

California who speak a language other than English in the home is 44%, and 42% of that population report speaking English less than, “very well.” Agencies in California have access to written, verbal, and American Sign Language (ASL) interpretation/translation services in order to serve applicants and children in care and employ staff to meet the language needs of the communities. Communication abilities should not be considered a detriment, but an important connection for a child to his or her culture and heritage.

The proposed standards also require that at least one applicant in the home have, “functional literacy,” described as having the ability to read and write at a level necessary to participate effectively in the community in which the applicant lives. The definition of “functional literacy,” would vary throughout California and there would not be a consistent method to determine an applicant’s literacy level in comparison to the community in which the applicant lives. The standards for having “functional literacy” and the ability to communicate in the same language of the child and in the community are potentially discriminatory based on an applicant’s primary language, marital status, education level and/or disability. Standards should allow for flexibility when approving an applicant and the applicant’s unique experiences in order to accommodate California’s diverse population and place children with relatives whenever possible.

b) Physical and Mental Health: CDSS recommends for HHS to consider the barriers that are caused when additional requirements are imposed on applicants such as the requirement of a health exam, disclosure of all household members’ health history, and immunizations. The applicant qualifications for the Resource Family Approval (RFA) standards require that an applicant be in good physical and mental health verified by submitting a health self-assessment questionnaire and does not require an evaluation by a licensed health care professional; however, as deemed necessary by an agency, an applicant may be required to complete a health screening by a health professional to verify good physical health. This differs from the proposed national model which requires a physical exam from a licensed health care professional conducted within the last year for an applicant. California, within the past year, had a requirement that applicants have a health screening completed by a health care professional. This requirement was causing barriers to timely approvals particularly for relatives who did not have access to affordable healthcare insurance and who were unable to pay fees associated with a physical exam. The RFA standards also do not impose any health-related requirements for other household members such as the proposed national model. California’s population density varies throughout the state and families residing in the dense neighborhoods of cities like San Francisco have varying needs from families residing in the rural area of the northern counties. Many applicants residing in urban areas such as San Francisco share a housing unit and living expenses with other adults who are of no relation to the applicants. The other household members’ health history has no bearing on an applicant’s ability to care for a child as the applicant would have the capacity to act as a reasonable and prudent parent regarding who can be present around the child and who can supervise a child for short-term occasions.

CDSS recommends that HHS consider amending the immunization requirements for an applicant's children as the requirements outlined in the proposed national model go beyond California state law which requires specified vaccinations to be obtained before a child enters public school or a licensed day care, but allows exemptions for medical reasons. The proposed national model may discourage potential Resource Families (RF) who choose to home school, utilize alternative day care other than a licensed facility, or who have received a medical exemption or developed an alternative schedule of vaccinations with their physician. This requirement will delay the approval timeline for otherwise eligible applicants who can provide care to a child.

c) Background Check: No Comments

d) Home Study: The RFA standards allow for flexibility in the Home Study regarding interviews and references as they do not directly affect the ability to care for a potential child placed in the home, and CDSS recommends that HHS consider this flexibility for the proposed national model. The proposed standards include at least one scheduled on-site visit to assess the home for safety standards, and at least one scheduled in-home interview for each household member. California had previous similar policies, but delays in approvals were common because applicants were being held responsible for the other adults' schedules and responsibilities to complete an interview. For example, if the individual was unrelated to the applicant, such as a renter, they had no vested interest to adjust his or her schedule for an interview. Because this caused significant delays to approvals, particularly with relatives who may have several additional household members, California revised the policy to allow more flexibility. Likewise, the RFA applicants would provide the names of references, but the references were not responsive to the agencies causing further delays. Because of the delays, CDSS changed policies to allow for flexibility in interview locations with other household members as well as the use of video communication. Policy was also changed to allow an agency to approve an applicant if references or other adults in the home were unavailable or unable to be interviewed.

## B. Foster Family Home Health and Safety

a) Living Space: California needs standards that accommodate families in urban areas as well as our most rural areas. We urge HHS to consider these varying needs for the proposed national model. The proposed standards define a bathroom as containing an operating toilet, sink, and tub or shower. The RFA standards require that a home have at least one operating toilet, sink, and tub or shower, but does not require that these elements be in one room in order to accommodate for homes in the rural counties of the state where the toilet, for example, may be in a separate room by itself. The proposed standards could be discriminatory towards the applicant's income level or socioeconomic status. As part of the RFA process, the agency will determine if an applicant is able to ensure a child's personal rights, as specified in the California Welfare and Institutions Code section 16001.9, are afforded to them. CDSS recommends that a national model include flexibility in the definitions as a rigid definition

will have an impact on relatives, whose home configurations may be non-traditional, yet still meet a child's needs and can ensure a child's personal rights are being met.

b) Condition of Home: The RFA standards do not require pet vaccinations as part of the approval process as this does not necessarily indicate an animal is safe in the home, however, they allow agencies to identify any concerns regarding an animal that may adversely impact the health and safety of a child and resolve any concerns prior to approval. The RFA standards also differ regarding safety features required for a swimming pool. While the proposed national model requires a barrier on all sides of a pool, a lock on the barrier, and a life saving device, the RFA standards allow for three means of protection in which an applicant may choose from to ensure inaccessibility to swimming pools, spas, and hot tubs. Safety protections required include the use of an enclosure or a pool safety cover that meets the American Society for Testing and Materials specifications. If it is not financially feasible or physically possible for the home and grounds to accommodate either safety requirements, then the use of exit alarms that are placed on all doors and windows that lead directly to the pool area are allowed to ensure safety. California does not allow for a home to be approved without ensuring an acceptable safety feature for a pool but recognizes the varying financial barriers that can be present for applicants and allows for the applicant to choose a safety feature that is within the applicant's financial means. Any national standards that are required for pool safety should allow flexibility that ensures the health and safety of youth in foster care but do not pose a financial barrier to a family's ability to care for youth.

#### C. Foster Home Capacity

The proposed national model allows for an increase in capacity beyond six children to accommodate situations such as allowing a parenting youth in foster care to remain with the child of the parenting youth, to allow a child to remain with a family because of an established meaningful relationship, and to allow a family with special training skills to provide care to a child who has a severe disability. Exceptions to allow for an increase in capacity will allow for more thoughtful placements that could meet a child's need, however, CDSS is concerned about increasing capacity if a family wishes to care for a child with special healthcare needs. The RFA standards limit the capacity to six children, and for an applicant who wishes to provide care to a child with special healthcare needs, to no more than two children in care with special health care needs due to the high level of care required including supervision and numerous medical and therapeutic appointments. The RFA standards allow for an exception to increase capacity in order for siblings to be placed together and limits capacity under circumstances regarding children with specialized health care needs. We recommend that the proposed national model allows for increases as well as limits to capacity.

#### D. Foster Home Sleeping Arrangements

No Comment

#### E. Emergency Preparedness, Fire Safety, and Evacuation Plans

CDSS recommends that the HHS consider California's commitment to placing children in family settings and to rely less on congregate care settings in order to promote normalcy in a child's life. The proposed national model requires the applicant to have an operable fire-extinguisher in the home as well as a smoke detector, and carbon monoxide detector on each level of the home and near all sleeping areas. The requirement of a fire extinguisher can place undue hardship on applicants with limited means to purchase extra items as part of the approval process. As of July 1, 2011, California enacted the Carbon Monoxide Poisoning Prevention Act which requires all single-family homes install carbon monoxide alarms in the home. The law instructs that the devices should be installed outside the sleeping areas of the home and does not require more than one carbon monoxide detector be installed. The posting of an evacuation plan, as required in the proposed model resembles a licensed residential care facility which is not a family like environment. The RFA standards require a Resource Family to discuss and practice emergency procedures with children, occasional short-term babysitters, and alternative caregivers every six months to ensure that children understand what to do in the event of an emergency and to promote normalcy in a child's life and a family environment. Resource Family homes were created to resemble a family-like setting and create normalcy for youth in foster care.

#### F. Transportation

The proposed national model limits transportation of the child in care to only members of the household and this restriction is in conflict with Federal law regarding the Reasonable and Prudent Parent Standard (RPPS). For example, specific provisions of the RPPS law include: allowing the caregiver to make decision regarding whether the child may engage in extracurricular, social, cultural, and overnight activities, including sleep overs, field trips, as well as allowing caregivers to arrange for transportation for the child to and from extracurricular, enrichment, and social activities. California passed the state's RPPS in 2005, and the proposed model contradicts the California law as well as the Federal law regarding RPPS. The proposed national model would discriminate against single applicants unable to transport a child due to work schedules and/or those with medical conditions or disabilities that do not allow the applicant to drive. Children in foster care have the right to maintain their school of origin, receive medical, dental, vision and mental health services, attend religious services and activities of his or her choice, to have contact with family members, to participate in extracurricular activities, etc. In order to ensure the child's rights are being met, arrangement of other transportation is often necessary. The proposed national model indicates that applicants that do not drive have the option of using public transportation, but the option of public transportation is often limited or unavailable in California's rural areas. This restriction would also negatively impact California's commitment to place a child with his or her siblings and with a relative whenever possible, as the proposed national standards would limit the number of potential children that an applicant would be able to offer care to, particularly when siblings have varying needs and schedules. Successful RF utilize supports when necessary in order to meet the specific needs of the child and ensure a child's personal rights and right to normalcy. CDSS strongly recommends HHS to reconsider this proposed requirement as it not only is in conflict with RPPS, it would

also have a negative impact on applicants and more importantly, the children in foster care.

#### G. Training

The proposed requirement for pre-licensing training includes age-appropriate First Aid and CPR training. The RFA standards originally required that CPR/First Aid training be completed prior to approval, but this was causing delays to approval because of the limited access to CPR/First Aid classes in the rural counties and approval of relatives was often delayed due to this requirement. The RFA standards allow First Aid and CPR training to be completed within 90 days of approval and does not require it to be specific to the ages of the children in placement; however, RFA requires that the CPR and First Aid training shall be obtained from an agency such as the American Red Cross, American Heart Association, State Emergency Medical Services Authority, or a course offered by an accredited college or university to accommodate for varying geographic regions throughout the state and limited availability of specific trainings. The requirements for CPR and First Aid are general so a family is able to care for children and youth of all ages. Specific requirements may be necessary only if an applicant is interested in caring for a child with special healthcare needs, the applicant may be required to complete specific training as required by the child's health care practitioner. CDSS agrees to the importance of CPR and First Aid training, but CDSS allows for flexibility in the timeframe to complete the training as many applicants have children placed in their home prior to being approved as a Resource Family.

#### H. Foster Parent Assurances

No Comment

CDSS further urges HHS to consider the diverse population of our state, especially of the children in care, and the necessity of having standards that are inclusive of potential applicants and do not exclude applicants, particularly relatives.

For further information or questions, you may contact me at (916) 657-2614.

Sincerely,

Gregory E. Rose  
Deputy Director  
Children and Family Services Division