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Everardo Vaca
Office of Regulations Development
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*VIA E-Mail: ord@dss.ca.gov
VIA Fax: (916) 654-3286*

Re: Comments to Proposed Regulations on Foster Family Homes, ORD #0908-06

Dear Mr. Vaca,

The Children's Advocacy Institute (CAI), located at the University of San Diego School of Law, seeks to improve the health, safety, and well-being of California's children. CAI advocates in the legislature to make the laws, in the courts to interpret laws, before administrative agencies to implement laws, and before the public to educate and build support for laws to improve the status of children statewide and nationwide. CAI educates policymakers about children's needs for economic security, adequate nutrition, health care, education, quality child care, and protection from abuse, neglect, and injury.

CAI was privileged to take part in the Children's Residential Regulations Review Workgroup (CRRRW) and, therefore, understands the great time effort that has gone into putting together the above referenced proposed regulatory package. CAI fully endorses the four guiding principles developed by the CRRRW and which were relied upon in developing the updated Foster Family Home (FFH) regulations:

- Provide for the health, safety, and well-being of children
- Be clear, concise, user-friendly, and simple
- Promote a "normal" childhood experience
- Prepare foster youth for adulthood

While CAI agrees with the overall goal of the changes made by the Department of Social Services, it is imperative to note the difficulty of providing a "normal" childhood experience through a package of regulations – the typical, non-foster child simply does not need to live by a set of enumerated regulations.

These were often the difficulties discussed by the CRRRW. Many of our comments address this over-arching deficiency.

Use of the Term “Facility”

Throughout the proposed regulatory package, the term “facility” is used to refer to the physical structure (ie home) of the licensed foster family. The use of this term seems inappropriate in the promotion of “normalcy” and, instead, lends an institution feel to regulations which are intended to govern homes. CAI proposed that the term “facility” be stricken from the proposed regulatory package and, instead, the term “foster family home” be used in its place.

The remainder of our comments will be directed toward the regulation most closely related to our concern.

Proposed Regulation 89201

This regulation is a definitional regulation which should be closely scrutinized as the regulation can have far-reaching implications. CAI’s first requested amendment to this proposed regulation is an amendment to subdivision (b)(1) which defines “Basic Rate” and includes, as part of the handbook, the language from Welfare and Institutions Code § 11461 tying the Basic Rate to the California Necessities Index. While this is an accurate repetition of the law as currently written in statute, CAI anticipates changes to this statute. CAI has participated in co-litigating the case of *California State Foster Parent Association, et. al., v. Wagner*. The United States District Court for the Northern District of California has found that California is currently in violation of federal law because California does not consider the cost factors mandated by the Child Welfare Act in its computation of the Basic Rate paid to foster parents. Based on this finding there is a great likelihood that Welfare and Institutions Code § 11461 will need to be amended. CAI, therefore, recommends eliminating this portion of the regulatory change until the statute is amended.

CAI’s next requested amendment to this proposed regulation is an amendment to subdivision (c)(3) which defines “Care and Supervision”. To appropriately further the guiding principles developed by the CRRRW, namely to create a more family-like environment, “care and supervision” should be specifically tailored to each child and should not be distilled to a specific list in a book of regulations. If it is deemed necessary to include a list of what “care and supervision” entails in a definitional regulation, language should be added so that it is clear “care and supervision” includes but is not limited to the specifics of the list. As currently written, the proposed regulation gives the appearance of being all-inclusive. In actuality, however, some aspects of care and supervision are, necessarily, excluded from the regulation. For example, the list provided in the proposed regulation does not even include transportation to the child’s home for visitation as required in Welfare and Institutions Code § 11460.

CAI’s final requested amendment to this proposed regulation is an amendment to subdivision (i)(2) which defines “Independent Living Program” as “a program authorized under 42 USC section 677 for services and activities to assist children 16 or older in foster care to make the transition from foster care to independent living.” The handbook lists examples of possible ILP assistance services. CAI proposes that the list should also included assistance finding a mentor or trustee for the transitioning youth. Once they are in the foster care system, foster youth experience instability, not only in their home and school placements, but also in the myriad of changing faces in their lives. Their classmates change along with placement and school changes and the important adults in their lives change frequently as well; their social workers change, their attorneys change, and their foster parents change. It is important both for the wellness of transition age foster youth and their transition into a successful, productive adult life, for them to have access to a consistent, caring adult in their lives. The mentor or trustee would help the foster youth to navigate the

intricacies of college application, financial aid application, finding and renting an apartment, and other issues with which a parent would traditionally provide support and assistance. Additionally, the mentor or trustee could serve in the role of a trustee where necessary such as, for example in the supervision (under court direction) of a post-emancipation plan for self-sufficiency pursuant to Probate Code § 1517 (b).

Proposed Regulation 89318

This regulation deals specifically with the qualifications of FFH Applicants. Subdivision (a) lists requirements of a foster family home license applicant. Of course, it is very difficult to create an exhaustive list. CAI submits this list should, at a minimum, include the following additional criteria:

- The applicant's willingness and ability to provide transportation for the child to visit biological family members, particularly parents and siblings.
- The applicant's willingness and ability to promote and provide transportation for at least one age-appropriate extra-curricular activity for each "child" in the applicant's care.

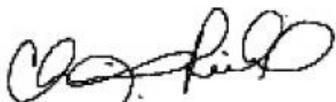
These proposed additions further the goal of Welfare and Institutions Code §§ 362.05 and 727 which require that every child adjudged a dependent child of the juvenile court be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. Additionally, these additions comport with requirements delineated in Proposed Regulations 89374 and 89379.

Proposed Regulation 89387

This regulation deals specifically with the building and grounds of a licensed foster family home. CAI recommends an amendment to subdivision (a) (3) of this regulation. Subdivision (a) (3) deals with who can share a room and provides that, except for infants, children shall not share a bedroom with an adult. We recommend that children should also be permitted to share a bedroom with their adult sibling who is a former foster youth, to the extent permitted under Federal Law. As we have mentioned above, the life of a foster child can be filled with a myriad of changing faces. By adding CAI's proposed amendment, the Agency is able to show a commitment to youth aging out of foster care while, at the same time, showing a commitment to keeping family units closely connected.

The Children's Advocacy Institute appreciates the opportunity to comment on the proposed changes to these regulations. We understand this we are nearing the end of a very long process and appreciate all the time and effort that has gone into the proposed amendments. Please feel free to contact me with questions or concerns.

Sincerely,



Christina McClurg Riehl
Staff Attorney