

HANDOUT ONE: The What and Why of the Reasonable and Prudent Parent Standard and Telephone Access for Foster Children

What is the Reasonable and Prudent Parent Standard?

The recent passage of SB 358 amended W&IC Section 362.05 to add the term “reasonable” to the prudent parent standard and requires the caregiver to use a **reasonable and prudent parent standard**, as defined in W&IC Section 362.04, in addition to the other existing provisions of W&IC Section 362.05. The definition is as follows:

“Reasonable and prudent parent standard” means the standard characterized by careful and sensible parental decisions that maintain the child’s health, safety, and best interests.

Issues to consider:

Differing definitions between what is “reasonable and prudent”. . .

Between child welfare workers and foster parents/care providers

Between foster parents/care providers and biological parents

Between foster parents/care providers and attorneys representing children or biological parents

Potentially less knowledge of/control of activities of children on child welfare workers’ caseloads

When does the Reasonable and Prudent Parent Standard apply?

1) For extracurricular and other activities

The W&IC Section 362.05 now empowers a foster parent to approve or disapprove a foster child’s **participation in activities** based on the foster parent’s own assessment using a reasonable and prudent parent standard, without prior approval of the social worker, licensing or approval agency, or the Juvenile Court.”¹ (ACL 05- 39)

2) For short term babysitting

The W&IC Section 362.04 law requires a caregiver to use a reasonable and prudent parent standard in determining and selecting an **appropriate babysitter** for occasional **short-term use**.² (ACL 06-02)

Effective January 1, 2006, the statute allows a caregiver to arrange for occasional short-term babysitting of a foster child without requiring the babysitter to undergo a health screening or cardiopulmonary resuscitation certification (CPR), or training. Additionally, SB 358 amended Health and Safety Code (H&SC) Section 1522(b) to exempt a short-term occasional babysitter from undergoing a criminal record background check.

DEFINITION: “Short-term” means no more than 24 consecutive hours. Provisions of the statute apply only to occasional, short-term (less than 24 consecutive hours) babysitters and should not be interpreted to apply to respite care providers who are allowed to care for foster children for more than 24 consecutive hours.

Confidential telephone calls

Welfare and Institutions Code (W&IC) Section 16001.9(9) states that all children in foster care have the right to make and receive confidential telephone calls, and have a right to privacy during such phone calls, unless prohibited by court order.. A list of authorized people and or personnel can be found in ACIN I-80-05.³

¹ California Department of Social Services. (2005) All-County Letter 05-39. Extracurricular, enrichment, and social activities for foster children.

² California Department of Social Services (2006) All-County Letter 06-02. Use of occasional short-term babysitters by foster caregivers.

³ California Department of Social Services (2005). All-County Information Notice I -80-05. Telephone access rights of children and youth in foster care.

When can calls be limited by care providers? Limitations on telephone calls to other individuals and agencies may be based on:

- reasonable disciplinary measures,
- house rules,
- consideration of the rights of others,
- case service plan requirements,
- documented unpaid reimbursement for long distance telephone calls, or
- court order prohibitions.

What providers may do:

- Develop policies regarding the number of calls and limit the amount of time of each call in order to ensure that all youth have equal access.
- Obtain in writing a “do not call” list from the child welfare worker *based on the court orders*
- Require that foster youth or their representatives to arrange for reimbursement of long distance calls

What providers may not do:

- Require payment for local calls.
- Restrict telephone access with the following: authorized representatives, placement agencies, family members not excluded by court order, social workers, attorneys, CASAs, probation officers, Community Care Licensing, or the Foster Care State Ombudsman.
- Use an “approved call list” rather than a “do not call” list.
- Limit phone access as a privilege based on the time in the program.
- Provide no confidential telephone access.

Issues:

Policies at the child welfare agency, group homes and foster homes may need to be changed to accommodate these new standards.

REMEMBER, the goal of these laws is to:

- Provide the youth with as “normal” life experience in-out-home care.
- Empower the out-of-home caregiver to encourage youth to engage in extracurricular activities that promote child well being.
- Allow for reasonable parenting decisions to be made by the out-of-home caregiver without waiting to obtain the social worker or Juvenile Court approval.
- Remove barriers to recruitment and retention of high quality foster caregivers.
- Reduce the need for social workers to either give permission or to obtain Juvenile Court approval for reasonable care giving activities.
- Respect the rights of youth in out-of-home care.

Activity:

Discuss additional “whys” specific to your agency setting that support the practice of the prudent parent standard, and as a group list two other reasons.

I. _____

II. _____

**HANDOUT TWO:
CAREGIVER INFORMATION SHEET**

**EXTRACURRICULAR, ENRICHMENT, AND SOCIAL ACTIVITIES,
AND THE REASONABLE AND PRUDENT PARENT STANDARD
September 2006**

This Information Sheet is intended to give you information regarding current law which entitles foster children to participate in age-appropriate, extracurricular, enrichment, and social activities.

Current law contained in Section 362.05 of the Welfare and Institutions Code (W&IC) provides that:

- Every child adjudged a dependent child of the juvenile court (a foster child) shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities.
- Caregivers must use a “prudent parent standard” in determining whether to give permission for a foster child to participate in extracurricular, enrichment, and social activities.
- Caregivers must take reasonable steps to determine the appropriateness of the activity in consideration of the child’s age, maturity, and developmental level.
- Any state or local regulation or policy which prevents or creates barriers to participation in those activities is prohibited.
- Each state and local entity is required to ensure that private agencies providing services to foster children have policies consistent with this section and that those agencies promote and protect the ability of foster children to participate in age-appropriate extracurricular, enrichment, and social activities.

New law added the term “reasonable” to expand the meaning of the current prudent parent standard. Effective January 1, 2006, caregivers are required to use the new **reasonable and prudent parent standard**, which is defined as follows:

“Reasonable and prudent parent standard” means the standard characterized by careful and sensible parental decisions that maintain the child’s health, safety, and best interests.

Every day, parents make important decisions about their children’s activities. Foster parents are faced with making the same decisions for the foster children in their care. However, when foster parents make decisions they also must consider licensing or approval laws and regulations to ensure the health and safety of foster children in care. The California Department of Social Services understands that state law and regulations have previously prohibited youth from participating in extracurricular activities unless certain requirements were met. Now, however, W&IC Section 362.05 empowers foster parents to approve or disapprove activities based on their own assessment using a “reasonable and prudent parent standard” without prior approval of the child’s social worker, the licensing or approval agency, or the juvenile court.

In enacting this law, the Legislature recognized the importance of making every effort to normalize the lives of foster children. Typical childhood activities in which foster children have been denied participation in the past include, for example, school-sponsored field trips or sports, sleep-over with friends, scouting, and 4-H activities. Frequently, foster

parents are reluctant to sign permission slips for foster children, when this should not be the case. Participation in these types of activities is important to the child's well-being, not only emotionally, but in developing valuable life-coping skills.

In applying the "reasonable and prudent parent standard," foster parents are required to take "reasonable steps" to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level. It is recognized that there are many different ways to determine whether an activity is appropriate for a foster child in your care.

Therefore, the following examples of "reasonable steps" that a foster parent may take in making this determination is provided as a guide to assist you in your decision-making process.

- Have adequate information about the foster child in your care so you can make informed decisions. For example, make an effort to be aware of anything in the foster child's history or case plan, and of any orders issued by the juvenile court that may suggest that a particular activity would not be appropriate for the foster child. If you are not aware of the child's history or if the case plan is silent on whether the proposed activity would be appropriate, you are encouraged to consult with the child's social worker.
- Take into account the type of activity and consider the foster child's mental and physical health, and behavioral propensities.
- Consider where the activity will be held, with whom the foster child will be going, and when they will return.
- Consider all the information you have gathered and ask the question: this an age-appropriate extracurricular, enrichment, or social activity?
- Take into account the reasonably foreseeable risks of an activity and what safety factors and direct supervision may be involved in the activity in order to prevent potential harm to the foster child. (i.e., hunting, paint ball, archery, or similar activities that may pose a higher risk).

This law only applies to participation in age-appropriate extracurricular, enrichment, and social activities. This law does not apply, for example, to unsupervised time at home. Any person having contact with a foster child for purposes other than those associated with a foster child's participation in age-appropriate, extracurricular, enrichment, and social activities must comply with existing criminal background check requirements specified in Health and Safety Code Section 1522 and W&IC Sections 39(d) and 361.4, as applicable.

HANDOUT THREE: CAREGIVER INFORMATION SHEET
September 2006

USE OF OCCASIONAL SHORT TERM BABYSITTERS
AND THE REASONABLE AND PRUDENT PARENT STANDARD

This Information Sheet is intended to give you information regarding new law which allows caregivers to arrange for occasional, short-term care of a foster child for periods not to exceed 24 hours using a reasonable and prudent parent standard. **The new law does not apply to child daycare providers.**

Recognizing that current law and regulations regarding the use of temporary caregivers (babysitters) created barriers to finding and keeping high-quality foster parents, the Legislature enacted a new law and amended existing law to eliminate some of those barriers in order to give a more normalizing life experience for the caregiver and foster child.

Effective January 1, 2006, new provisions contained in Section 362.04 of the Welfare and Institutions Code (W&IC) provides that a caregiver can use a short-term babysitter (meaning no more than 24 hours) when a caregiver needs to attend various activities, including, but not limited to:

- *a medical or other health care appointment*
- *grocery or other shopping*
- *personal grooming appointment*
- *a special event for the foster parent*
- *foster parent training classes*
- *school-related meetings (parent-teacher conferences)*
- *business meetings*
- *adult social gatherings*
- *an evening out.*

The new law exempts the babysitter from having to have a health screening, cardio pulmonary resuscitation (CPR) certification, or training. Current law was also changed to exempt short-term babysitters from having to undergo a criminal record background check.

The new law requires the caregiver to use a specific standard for determining and selecting appropriate babysitters for occasional short-term use. Caregivers must use a **reasonable and prudent parent standard**, which is defined as follows:

“Reasonable and prudent parent standard” means the standard characterized by careful and sensible parental decisions that maintain the child’s health, safety, and best interests.

Making careful and sensible parental decisions regarding the use of an occasional, short-term babysitter that maintains the child’s health, safety, and best interest can be difficult. Caregivers should think about these additional considerations:

- *The child’s age, maturity, mental and physical health, developmental level, behavioral propensities and aptitude of the child, and the ability of the babysitter to give the necessary, appropriate care.*
- *Weigh the foreseeable risks in leaving the child with a babysitter.*

- *If unsure about the appropriateness of leaving the child with a babysitter, discuss your concerns with the child's social worker.*

The new law requires that caregivers must make an effort to give the babysitter the following information before leaving the child with a babysitter for short-term care:

- *Information about the child's emotional, behavioral, medical, or physical conditions, if any, necessary to provide care for the child during the time the foster child is being supervised by the babysitter,*
- *Any medication that should be administered to the foster child during the time the foster child is being supervised by the babysitter; and,*
- *Emergency contact information that is valid during the time the foster child is being supervised by the babysitter.*

HANDOUT FOUR:
The Prudent Parent Standard: What are Reasonable Decisions?
Trainer/Facilitator Key

Introduction: Under the statute (AB 408 and SB 358), the caregiver is empowered to decide what activities foster youth may participate in and to select occasional, short-term babysitters. It is important to note social workers may collaborate and assist the caregivers in the decisions that they make as prudent parents, but do not monitor caregivers in making reasonable prudent parent decisions. The scenarios below offer points of discussion for caregivers, social workers and supervisors.

Review the caregiver scenarios and rate the following scenarios on what is:

Red – This is not a reasonable decision to be made by out of home caregivers and does not fall within the reasonable and prudent parent standard.

Yellow – This is a decision that should be discussed with the child welfare worker.

Green – Falls within the reasonable and prudent standard.

1. A foster parent would like to get a babysitter because the foster parent wants to go out to a concert. The foster parent contacts his sister and asks if she would babysit two foster children, ages 6 and 4. The foster children have been in the home for six months and have some difficulty getting to sleep in the evenings.
2. A 16-year-old in a group home would like to attend a one-day ski class with his high school. The trip requires a permission slip be signed. The 16-year-old has been in the group home for three months and has been doing well.
3. A relative/kin caregiver would like to take a three-day trip with his niece, age 2, and nephew, 4, who have been placed with them by the court, along with their own child, age 10, to Disneyland.
4. A 15-year-old would like to call her friend that is across town. It is a long distance call and the foster mother won't allow any long distance calls.
5. A child's attorney calls the child welfare worker to complain that a foster family should have gotten the court's permission to allow a 10-year-old to participate in skateboarding tournaments. The foster family has two other children ages 7, 9, besides the 10- year-old. All of the children ride skateboards.
6. Foster parents go on a getaway weekend and leave two foster children, ages 12 and 15, with the foster aunt and uncle and their children.
7. A relative hires an evening babysitter for two foster children, ages 4 and 9. The relative does not disclose that these children are foster children, in order to avoid stigmatizing them.
8. A report comes into the hotline that a daycare provider has hired a babysitter to watch the children in daycare while the daycare provider attends a medical appointment.
9. A 17-year-old in foster care would like to get a work permit.
10. A foster parent asks her 17-year-old daughter to watch her foster children, ages 4 and 8, for 90 minutes so that she can get her hair done. The daughter knows about the children and their behavior and knows how to reach the foster mother in an emergency.

**HANDOUT FIVE:
Prudent & Reasonable Parent Standard: Action Plan for Changing Practice**

Today's Date: _____

The previous handout *The What and Why of the Prudent Parent Standard* begins the discussion on current practice and identifies some stakeholders in the system that may need information in order to change their practice to reflect the prudent parent standard. This handout may be utilized to assess systemic issues and develop an action plan. Using the matrix below, identify the stakeholders directly impacted by this change in practice, a method for getting the information out, and strategies for handling problems and concerns as the practice of the prudent parent standard is implemented. The first line has been completed as an example.

Who? Who needs this information?	What What information do they need?	How? How will he/she/they get the information and by when?	Barriers/Solutions Once the information is disseminated what potential problems might come up? What are suggested strategies that might help address them?
1) Foster parents	Changes in the law. What they can now do that they couldn't before under the law	The foster parent association meeting Social Worker will hand out the information sheet to them on monthly home visits.	Not all of them attend the association meeting Solution: Mail out the notices to them as well. Foster parents might have questions about specific activities. Solution: Encourage them to call initially if they have questions
2)			

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3)			
4)			
5)			

Review Action Plan and revise by _____ (6 weeks from today).