

84172 Personal Rights

(a)

Sections 80072 and 84072 are not applicable to community treatment facilities.

(b)

The licensee shall ensure that every child admitted to a community treatment facility is informed and afforded the personal rights as specified in Sections 5325, 5325.1, 5325.2, 5326, and 16001.9 of the Welfare and Institutions Code; Section 1530.91 of the Health and Safety Code; Sections 862 through 865 and 867 of the California Code of Regulations, Title 9, Chapter 4; and Sections 1934, 1935, 1936, and 1937 of the California Code of Regulations, Title 9, Chapter 11.

(c)

Each facility licensed to provide foster care for six or more children shall post a listing of a foster child's rights. The rights posted in the facility shall be consistent with the list of rights specified in Welfare and Institutions Code section 16001.9(a) and as specified in subsection (f).(1) Pursuant to Section 1530.91(b) of the Health and Safety Code, any facility licensed to provide foster care for six or more children must use material developed by the Office of the Foster Care Ombudsperson to satisfy the posting of the foster child's rights specified above.

(1)

Pursuant to Section 1530.91(b) of the Health and Safety Code, any facility licensed to provide foster care for six or more children must use material developed by the Office

of the Foster Care Ombudsperson to satisfy the posting of the foster child's rights specified above.

(d)

The licensee shall provide each child and their authorized representative, regardless of whether the child is in foster care, with the information listed in subdivision (e) at the following times: (1) Upon placement in a facility; (2) At the request of a child; and (3) Each time a new right has been added to subsection (c) or Welfare and Institutions Code section 16001.9.

(1)

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(2)

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(3)

Each time a new right has been added to subsection (c) or Welfare and Institutions Code section 16001.9.

(e)

Pursuant to subdivision (d), the licensee shall provide each child with the following information: (1) An age or developmentally appropriate orientation that includes an explanation of the rights of the child, as specified in subsection (f) below and in Welfare and Institutions Code section 16001.9, and addresses the child's questions and concerns; (2) A written copy of these rights; and (3) Contact information for the agencies the child may contact concerning violations of these rights and other complaints, including the address, email address, and telephone number of the California Department of Social Services Community Care Licensing Division and Foster Care Ombudsperson.

(1)

An age or developmentally appropriate orientation that includes an explanation of the rights of the child, as specified in subsection (f) below and in Welfare and Institutions Code section 16001.9, and addresses the child's questions and concerns;

(2)

A written copy of these rights; and

(3)

Contact information for the agencies the child may contact concerning violations of these rights and other complaints, including the address, email address, and telephone number of the California Department of Social Services Community Care Licensing Division and Foster Care Ombudsperson.

(g)

A licensee shall not subject a child to harassment, punishment, or retribution for exercising the personal rights specified in subsection (e) and Welfare and Institutions Code section 16001.9.

(h)

This section does not require, and shall not be interpreted to require, a licensee to take any action that would impair the health and safety of children in out-of-home placement consistent with Welfare & Institutions Code section 16001.9(c).

(i)

Every child has a right to a hearing by writ of habeas corpus. The licensee shall develop, maintain and implement written procedures that shall meet the following requirements: (1) Any member of the facility staff to whom a request is made shall promptly do the following: (A) Provide the child making the request with a form for a request for release or mark a copy of the form for the child. The form shall be substantially as follows: (Name of the Facility) _____ day of _____ 20 ____ I, _____ (member of the

community treatment facility staff) have today received a request for the release of _____ (name of patient) from the undersigned patient on their own behalf or from the undersigned person on behalf of the patient. Signature or mark of patient making request for release Signature or mark of patient making request for release on behalf of patient Signature of staff person receiving request for release (B) Deliver the completed request form to the Administrator and note the request in the child's facility record. (2) Submit the request for release form to the superior court for the county in which the facility is located by the next working day of the request for release. (3) Inform the person who admitted the child of the request for release within 24 hours of the request for release. (4) Maintain a copy of the child's request for release as specified in Section 84172(i)(1)(A) along with notification documents to the superior court in the child's record. (5) The facility's administrator shall ensure that the child is informed as soon as possible of the date, time, and location of the hearing. (6) The child shall be permitted to communicate with counsel confidentially and to prepare for and attend the judicial hearing demanding their release.

(1)

Any member of the facility staff to whom a request is made shall promptly do the following: (A) Provide the child making the request with a form for a request for release or mark a copy of the form for the child. The form shall be substantially as follows: (Name of the Facility) _____ day of _____ 20 ____ I, _____ (member of the community treatment facility staff) have today received a request for the release of _____ (name of patient) from the undersigned patient on their own behalf or from the undersigned person on behalf of the patient. Signature or mark of patient making request for release Signature or mark of patient making request for release on behalf of

patient Signature of staff person receiving request for release (B) Deliver the completed request form to the Administrator and note the request in the child's facility record.

(A)

Provide the child making the request with a form for a request for release or mark a copy of the form for the child. The form shall be substantially as follows: (Name of the Facility)

_____ day of _____ 20 ____ I, _____

(member of the community treatment facility staff) have today received a request for the release of _____ (name of patient) from the undersigned patient on their own behalf or from the undersigned person on behalf of the patient. Signature or mark of patient making request for release Signature or mark of patient making request for release on behalf of patient Signature of staff person receiving request for release

(B)

Deliver the completed request form to the Administrator and note the request in the child's facility record.

(2)

Submit the request for release form to the superior court for the county in which the facility is located by the next working day of the request for release.

(3)

Inform the person who admitted the child of the request for release within 24 hours of the request for release.

(4)

Maintain a copy of the child's request for release as specified in Section 84172(i)(1)(A) along with notification documents to the superior court in the child's record.

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The facility's administrator shall ensure that the child is informed as soon as possible of the date, time, and location of the hearing.

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The child shall be permitted to communicate with counsel confidentially and to prepare for and attend the judicial hearing demanding their release.