

86172 Personal Rights

(a)

Each participant, and his/her authorized representative, shall be personally advised with an age or developmentally appropriate orientation explaining the rights of the participant and addressing the participant's questions and concerns, and given a copy of the rights specified in Section 86172(b) at the following times:(1) Upon placement in a THPP; (2) At the request of a participant; and (3) Each time a new right has been added to subsection (b) or Welfare and Institutions Code section 16001.9.

(1)

Upon placement in a THPP;

(2)

At the request of a participant; and

(3)

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

(b)

The licensee shall ensure that each participant is accorded the personal rights specified in Welfare and Institutions Code section 16001.9 and below, as applicable:(1) To be accorded safe, healthful and comfortable home accommodations, furnishings and equipment that are appropriate to their needs.

(2) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat; exploitation, physical, sexual, emotional mental, or other abuse, or other actions of a punitive nature including, but not limited to, interference with the daily living functions of eating, sleeping, or toileting, or withholding of shelter, clothing, or aids to physical functioning. (3) To be informed, and to have their authorized representative informed, by the licensee of the provisions of law regarding complaints including: (A) The address, email address and telephone number of the Community Care Licensing Division of the Department and the State Foster Care Ombudsperson. (B) The confidentiality of complaints. (C) The right to contact any or all of these offices immediately upon request regarding violations of rights. (D) The right to be free from threats or punishment for making complaints. (4) To have access to letter writing material. (5) To be accorded dignity in their personal relationships with others in the THPP. If the youth is Indian, to live in a home that upholds the prevailing social and cultural standards of the youth's Indian community, including, but not limited to, family, social, and political ties. (A) To be free from unreasonable searches of person or personal belongings. (6) To be accorded the independence appropriate to the age, maturity, and capability of a participant consistent with the Needs and Services Plan or the Transitional Independent Living Plan (TILP) for the participant. (7) Provided the rights of others are not infringed upon, to have visitors as specified by the licensee's policies, in accordance with Welfare and Institutions Code Section 16522.1 that include: (A) Relatives and family members, including siblings, unless prohibited by court order. (B) The authorized representative for a participant. (C) Other visitors unless prohibited by court order or by the authorized representative for a participant. (8) To possess and control their own cash resources, and to maintain a bank account and manage

personal income, unless otherwise agreed to in the participant's needs and services or TILP and by the participant's placing agency and authorized representative.

(9) To possess and use their own personal possessions, including: (A) Clothing.

Participants shall receive adequate clothing. Clothing and personal items provided shall be in accordance with Welfare & Institutions Code section 16001.9(a)(3),

respecting the participant's culture, ethnicity, and gender identity and gender expression. (B) Toiletries, grooming products, and personal hygiene products.

Participants shall receive adequate grooming and hygiene products. Grooming and hygiene products provided shall be in accordance with Welfare and

Institutions section 16001.9(a)(3), respecting the participant's culture, ethnicity, and gender identity and gender expression. (C) Personal belongings, including

items that were a gift to the participant unless prohibited as part of a discipline program. (10) To make and receive confidential telephone calls, and send and

receive unopened mail and electronic communication, unless prohibited by court order. (A) Reasonable restrictions may be imposed by a licensee, social worker,

or probation officer on calls and correspondence. (B) In addition to (A), a licensee may: 1. Request reimbursement for the cost of long distance calls made by a

participant, from the participant or their authorized representative, 2. Deny the making of long distance calls by a participant upon verification that previous long

distance calls have not been paid, 3. Ensure that telephone use does not infringe upon the rights of others, nor tie up the phone during emergencies, and 4. Restrict

the telephone use of a participant except as provided in (D) below, subject to social worker or probation officer review. 5. Restrict Internet usage when

appropriate. (C) No restrictions shall be applied to telephone calls, mail, and electronic communication with relatives and family members, including brothers

and sisters, unless prohibited by court order. (D) No restrictions shall be applied to

telephone calls, mail, and electronic communication with social workers, authorized representatives, attorneys, service providers, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), probation officers, education rights holder if other than the parent or parents, the Community Care Licensing Division of the Department, the State Foster Care Ombudsperson, and when applicable, representatives designated by the participant's Indian tribe to participate in the juvenile court proceeding. (11) To be provided the names and contact information for social workers, probation officers, attorneys, service providers, foster youth advocates, Court Appointed Special Advocates (CASAs), and education rights holder if other than the parent or parents, and when applicable, representatives designated by the participant's Indian tribe to participate in the juvenile court proceeding, and to communicate with these individuals privately. (12) To receive adequate and healthy food and an age-appropriate allowance. (A) Participant allowances shall be consistent with the requirements of section 16522.1(b)(7) of the Welfare and Institutions Code. (13) To not be locked in any portion of their foster care placement. (14) To have a placement that utilizes trauma-informed and evidence-based de-escalation and intervention techniques. (A) Law enforcement intervention shall only be requested when there is an imminent threat to the life or safety of a participant or another person or as a last resort after other diversion and de-escalation techniques have been utilized and only upon approval of a staff supervisor. (B) Law enforcement intervention shall not be used as a threat or in retaliation against the participant. (15) To have storage space for private use. (16) To have social contacts with people outside of the foster care system, including, but not limited to, teachers, coaches, religious or spiritual community members, mentors, and friends. If the participant is an Indian child, to have the right to have contact with tribal

members and members of their Indian community consistent with the prevailing social and cultural conditions and way of life of the Indian participant's tribe. (17) To attend religious services, activities, and ceremonies of the participant's choice, including, but not limited to, engaging in traditional Native American religious practices. (18) To participate in extracurricular, cultural, racial, ethnic, personal enrichment, and social activities, including, but not limited to, access to computer technology and the internet, consistent with the participant's age, maturity, developmental level, sexual orientation, and gender identity and gender expression. (19) To have fair and equal access to all available services, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and gender expression, mental or physical disability, or HIV status. (A) The right to be free from discrimination includes an Indian child's right to be free from discrimination based on their political affiliation with an Indian tribe or Alaskan village. (20) To have caregivers who have received instruction on cultural competency and sensitivity relating to sexual orientation, gender identity and gender expression, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender children in out-of-home care. (21) To access and receive health related services, as defined in Section 86001(h)(1), with reasonable promptness that meets the needs of the participant. (22) To participate in decisions regarding health care treatment and services including: (A) Choosing, whenever feasible and in accordance with applicable law, their own health care provider for medical, dental, vision, mental health, substance use disorder services, and sexual and reproductive health care if payment for the service is authorized under applicable federal Medicaid law or other approved insurance. (B) Communicating with their

health care provider regarding any treatment concerns or needs. (C) Requesting a second opinion before being required to undergo invasive medical, dental, or psychiatric treatment. (23) To personally consent to or decline medical services related to the following, without the consent or knowledge of any adult: (A) The prevention, testing or treatment of pregnancy, including but not limited to: contraception, pregnancy testing, and perinatal care, at any age. (B) Abortion. (C) Sexual assault. (D) The prevention, testing, and treatment of sexually transmitted diseases, including HIV. (E) Mental health services. (24) To have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy, and the prevention and treatment of sexually transmitted infections. (25) To confidentiality of medical and mental health records, including, but not limited to, HIV status, substance use disorder history and treatment, and sexual and reproductive health care, consistent with existing law. (26) To attend Independent Living Program classes and activities and to not be prevented by caregivers from attending as a consequence or punishment. (27) To work and develop job skills at an age-appropriate level, consistent with state law. (28) Except in an emergency, to be free of the administration of medication or chemical substances, and to be free of all psychotropic medications unless prescribed by a physician, and in the case of children, authorized by a judge, without consequences or retaliation. (29) To be referred to by the participant's preferred name and gender pronouns. (30) To maintain privacy regarding sexual orientation and gender identity and gender expression, unless the participant permits the information to be disclosed, or disclosure is required to protect their health and safety, or disclosure is compelled by law or a court order. (31) To attend school. (32) To obtain, possess and use contraception as well as medications for the prevention or treatment of

pregnancy, including but not limited to: prenatal vitamins, birth control medication, emergency contraception, long acting reversible contraceptives, condoms, and barrier methods. (33) To obtain, possess, and use contraception and medications for the prevention or treatment of sexually transmitted diseases.

(1)

To be accorded safe, healthful and comfortable home accommodations, furnishings and equipment that are appropriate to their needs.

(2)

To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat; exploitation, physical, sexual, emotional mental, or other abuse, or other actions of a punitive nature including, but not limited to, interference with the daily living functions of eating, sleeping, or toileting, or withholding of shelter, clothing, or aids to physical functioning.

(3)

To be informed, and to have their authorized representative informed, by the licensee of the provisions of law regarding complaints including: (A) The address, email address and telephone number of the Community Care Licensing Division of the Department and the State Foster Care Ombudsperson. (B) The confidentiality of complaints. (C) The right to contact any or all of these offices immediately upon request regarding violations of rights. (D) The right to be free from threats or punishment for making complaints.

(A)

The address, email address and telephone number of the Community Care Licensing Division of the Department and the State Foster Care Ombudsperson.

(B)

The confidentiality of complaints.

(C)

The right to contact any or all of these offices immediately upon request regarding violations of rights.

(D)

The right to be free from threats or punishment for making complaints.

(4)

To have access to letter writing material.

(5)

To be accorded dignity in their personal relationships with others in the THPP. If the youth is Indian, to live in a home that upholds the prevailing social and cultural standards of the youth's Indian community, including, but not limited to, family, social, and political ties.(A) To be free from unreasonable searches of person or personal belongings.

(A)

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(6)

To be accorded the independence appropriate to the age, maturity, and capability of a participant consistent with the Needs and Services Plan or the Transitional Independent Living Plan (TILP) for the participant.

(7)

Provided the rights of others are not infringed upon, to have visitors as specified by the licensee's policies, in accordance with Welfare and Institutions Code Section 16522.1 that include: (A) Relatives and family members, including siblings, unless prohibited by court order. (B) The authorized representative for a participant. (C) Other visitors unless prohibited by court order or by the authorized representative for a participant.

(A)

Relatives and family members, including siblings, unless prohibited by court order.

(B)

The authorized representative for a participant.

(C)

Other visitors unless prohibited by court order or by the authorized representative for a participant.

(8)

To possess and control their own cash resources, and to maintain a bank account and manage personal income, unless otherwise agreed to in the participant's needs and services or TILP and by the participant's placing agency and authorized representative.

(9)

To possess and use their own personal possessions, including: (A) Clothing.

Participants shall receive adequate clothing. Clothing and personal items provided shall be in accordance with Welfare & Institutions Code section 16001.9(a)(3), respecting the participant's culture, ethnicity, and gender identity and gender expression. (B)

Toiletries, grooming products, and personal hygiene products. Participants shall receive adequate grooming and hygiene products. Grooming and hygiene products provided shall be in accordance with Welfare and Institutions section 16001.9(a)(3), respecting the participant's culture, ethnicity, and gender identity and gender expression. (C)

Personal belongings, including items that were a gift to the participant unless prohibited as part of a discipline program.

(A)

Clothing. Participants shall receive adequate clothing. Clothing and personal items provided shall be in accordance with Welfare & Institutions Code section 16001.9(a)(3), respecting the participant's culture, ethnicity, and gender identity and gender expression.

(B)

Toiletries, grooming products, and personal hygiene products. Participants shall receive adequate grooming and hygiene products. Grooming and hygiene products provided shall be in accordance with Welfare and Institutions section 16001.9(a)(3), respecting the participant's culture, ethnicity, and gender identity and gender expression.

(C)

Personal belongings, including items that were a gift to the participant unless prohibited as part of a discipline program.

(10)

To make and receive confidential telephone calls, and send and receive unopened mail and electronic communication, unless prohibited by court order. (A) Reasonable restrictions may be imposed by a licensee, social worker, or probation officer on calls and correspondence. (B) In addition to (A), a licensee may: 1. Request reimbursement for the cost of long distance calls made by a participant, from the participant or their authorized representative, 2. Deny the making of long distance calls by a participant upon verification that previous long distance calls have not been paid, 3. Ensure that telephone use does not infringe upon the rights of others, nor tie up the phone during emergencies, and 4. Restrict the telephone use of a participant except as provided in (D) below, subject to social worker or probation officer review. 5. Restrict Internet usage when appropriate. (C) No restrictions shall be applied to telephone calls, mail, and electronic communication with relatives and family members, including brothers and sisters, unless prohibited by court order. (D) No restrictions shall be applied to telephone calls, mail, and electronic communication with social workers, authorized representatives, attorneys, service providers, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), probation officers, education rights holder if other than the parent or parents, the Community Care Licensing Division of the

Department, the State Foster Care Ombudsperson, and when applicable, representatives designated by the participant's Indian tribe to participate in the juvenile court proceeding.

(A)

Reasonable restrictions may be imposed by a licensee, social worker, or probation officer on calls and correspondence.

(B)

In addition to (A), a licensee may: 1. Request reimbursement for the cost of long distance calls made by a participant, from the participant or their authorized representative, 2. Deny the making of long distance calls by a participant upon verification that previous long distance calls have not been paid, 3. Ensure that telephone use does not infringe upon the rights of others, nor tie up the phone during emergencies, and 4. Restrict the telephone use of a participant except as provided in (D) below, subject to social worker or probation officer review. 5. Restrict Internet usage when appropriate.

1.

Request reimbursement for the cost of long distance calls made by a participant, from the participant or their authorized representative,

2.

Deny the making of long distance calls by a participant upon verification that previous long distance calls have not been paid,

3.

Ensure that telephone use does not infringe upon the rights of others, nor tie up the phone during emergencies, and

4.

Restrict the telephone use of a participant except as provided in (D) below, subject to social worker or probation officer review.

5.

Restrict Internet usage when appropriate.

(C)

No restrictions shall be applied to telephone calls, mail, and electronic communication with relatives and family members, including brothers and sisters, unless prohibited by court order.

(D)

No restrictions shall be applied to telephone calls, mail, and electronic communication with social workers, authorized representatives, attorneys, service providers, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), probation officers, education rights holder if other than the parent or parents, the Community Care Licensing Division of the Department, the State Foster Care Ombudsperson, and when applicable, representatives designated by the participant's Indian tribe to participate in the juvenile court proceeding.

(11)

To be provided the names and contact information for social workers, probation officers, attorneys, service providers, foster youth advocates, Court Appointed Special Advocates (CASAs), and education rights holder if other than the parent or parents, and when applicable, representatives designated by the participant's Indian tribe to participate in the juvenile court proceeding, and to communicate with these individuals privately.

(12)

To receive adequate and healthy food and an age-appropriate allowance.(A)
Participant allowances shall be consistent with the requirements of section 16522.1(b)(7) of the Welfare and Institutions Code.

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(13)

To not be locked in any portion of their foster care placement.

(14)

To have a placement that utilizes trauma-informed and evidence-based de-escalation and intervention techniques. (A) Law enforcement intervention shall only be requested when there is an imminent threat to the life or safety of a participant or another person or as a last resort after other diversion and de-escalation techniques have been utilized and only upon approval of a staff supervisor. (B) Law enforcement intervention shall not be used as a threat or in retaliation against the participant.

(A)

Law enforcement intervention shall only be requested when there is an imminent threat to the life or safety of a participant or another person or as a last resort after other diversion and de-escalation techniques have been utilized and only upon approval of a staff supervisor.

(B)

Law enforcement intervention shall not be used as a threat or in retaliation against the participant.

(15)

To have storage space for private use.

(16)

To have social contacts with people outside of the foster care system, including, but not limited to, teachers, coaches, religious or spiritual community members, mentors, and friends. If the participant is an Indian child, to have the right to have contact with tribal members and members of their Indian community consistent with the prevailing social and cultural conditions and way of life of the Indian participant's tribe.

(17)

To attend religious services, activities, and ceremonies of the participant's choice, including, but not limited to, engaging in traditional Native American religious practices.

(18)

To participate in extracurricular, cultural, racial, ethnic, personal enrichment, and social activities, including, but not limited to, access to computer technology and the internet, consistent with the participant's age, maturity, developmental level, sexual orientation, and gender identity and gender expression.

(19)

To have fair and equal access to all available services, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and gender expression, mental or physical disability, or HIV status. (A) The right to be free from discrimination includes an Indian child's right to be free from discrimination based on their political affiliation with an Indian tribe or Alaskan village.

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The right to be free from discrimination includes an Indian child's right to be free from discrimination based on their political affiliation with an Indian tribe or Alaskan village.

(20)

To have caregivers who have received instruction on cultural competency and sensitivity relating to sexual orientation, gender identity and gender expression, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender children in out-of-home care.

(21)

To access and receive health related services, as defined in Section 86001(h)(1), with reasonable promptness that meets the needs of the participant.

(22)

To participate in decisions regarding health care treatment and services including: (A) Choosing, whenever feasible and in accordance with applicable law, their own health care provider for medical, dental, vision, mental health, substance use disorder services, and sexual and reproductive health care if payment for the service is authorized under applicable federal Medicaid law or other approved insurance. (B) Communicating with their health care provider regarding any treatment concerns or needs. (C) Requesting a second opinion before being required to undergo invasive medical, dental, or psychiatric treatment.

(A)

Choosing, whenever feasible and in accordance with applicable law, their own health care provider for medical, dental, vision, mental health, substance use disorder services, and sexual and reproductive health care if payment for the service is authorized under applicable federal Medicaid law or other approved insurance.

(B)

Communicating with their health care provider regarding any treatment concerns or needs.

(C)

Requesting a second opinion before being required to undergo invasive medical, dental, or psychiatric treatment.

(23)

To personally consent to or decline medical services related to the following, without the consent or knowledge of any adult: (A) The prevention, testing or treatment of pregnancy, including but not limited to: contraception, pregnancy testing, and perinatal care, at any age. (B) Abortion. (C) Sexual assault. (D) The prevention, testing, and

treatment of sexually transmitted diseases, including HIV. (E) Mental health services.

(A)

The prevention, testing or treatment of pregnancy, including but not limited to:
contraception, pregnancy testing, and perinatal care, at any age.

(B)

Abortion.

(C)

Sexual assault.

(D)

The prevention, testing, and treatment of sexually transmitted diseases, including HIV.

(E)

Mental health services.

(24)

To have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy, and the prevention and treatment of sexually transmitted infections.

(25)

To confidentiality of medical and mental health records, including, but not limited to, HIV status, substance use disorder history and treatment, and sexual and reproductive health care, consistent with existing law.

(26)

To attend Independent Living Program classes and activities and to not be prevented by caregivers from attending as a consequence or punishment.

(27)

To work and develop job skills at an age-appropriate level, consistent with state law.

(28)

Except in an emergency, to be free of the administration of medication or chemical substances, and to be free of all psychotropic medications unless prescribed by a physician, and in the case of children, authorized by a judge, without consequences or retaliation.

(29)

To be referred to by the participant's preferred name and gender pronouns.

(30)

To maintain privacy regarding sexual orientation and gender identity and gender expression, unless the participant permits the information to be disclosed, or disclosure is required to protect their health and safety, or disclosure is compelled by law or a court order.

(31)

To attend school.

(32)

To obtain, possess and use contraception as well as medications for the prevention or treatment of pregnancy, including but not limited to: prenatal vitamins, birth control medication, emergency contraception, long acting reversible contraceptives, condoms, and barrier methods.

(33)

To obtain, possess, and use contraception and medications for the prevention or treatment of sexually transmitted diseases.

(c)

Each facility licensed to provide foster care for six or more children shall post a listing of a foster child's rights, pursuant to Health and Safety Code section 1530.91. 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 (b). (1) Pursuant to Health and Safety Code 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 Health and Safety Code 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)

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

(e)

In ensuring the rights of a participant, a licensee is not required to permit or take any action that would impair the health and safety of a participant or others in the facility as specified in Welfare & Institutions Code Section 16001.9(c).