

89228 Capacity Determination

(a)

The number of children for whom the home is licensed to provide care and supervision shall be established on the basis of the application review by the licensing agency. (1) For licenses granted after January 1, 2010, this number shall not exceed six children, including a "child" and biological, adoptive, and guardianship children. (A) For existing homes in which the number of children exceeds six, including a "child," biological, adoptive, and guardianship children, no new placements shall be accepted until the number of children in the home does not exceed six, unless authorized by the licensing agency. (2) If it is determined that the home can meet the needs of all children in the home, the licensing agency may grant a waiver or exception for the home to provide care to more than six children. (3) Provided that all the conditions of Health and Safety Code section 1505.2 and the conditions for homes with a capacity of more than six children specified in Section 89420, subsection (b) are met, the licensing agency may authorize a home to care for up to eight children to accommodate a sibling group. A sibling group includes, but is not limited to, biological, step-siblings, and half-siblings.

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Provided that all the conditions of Health and Safety Code section 1505.2 and the conditions for homes with a capacity of more than six children specified in Section 89420, subsection (b) are met, the licensing agency may authorize a home to care for up to eight children to accommodate a sibling group. A sibling group includes, but is not limited to, biological, step-siblings, and half-siblings.

(b)

When determining the capacity of the home, the licensing agency shall take into consideration the following: (1) The caregiver's ability to comply with applicable laws and regulations. (2) How many children, in addition to the children already living in the home, the caregiver is capable of providing care and supervision to and that the home can accommodate. (3) Any other household members, including but not limited to, children under guardianship or conservatorship, who

already live in the home and their individual needs. (4) Homes which accept a minor parent and his or her child(ren) shall have such child(ren) included in the home's licensed capacity. (5) Physical features of the home, including available living space, which are necessary in order to comply with regulations.

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(c)

The licensing agency may issue a license for fewer children than is requested when the licensing agency determines that the caregiver's responsibilities to other persons in the home, including persons under guardianship and conservatorship, would not allow the caregiver to provide the care and supervision required by these regulations.

(d)

When the licensing agency issues a license for fewer children than requested by the applicant, the licensing agency shall notify the applicant in writing of the reasons for the limitation and of the applicant's right to appeal the decision as specified in Section 89240, Denial of a License.

(e)

The licensing agency may decrease the existing licensed capacity of a foster family home, with the caregiver's agreement, when there is a change in any of the factors specified in subsection (b). (1) If the caregiver does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 89242, Revocation or Suspension of a License. (2) If the licensing agency initiates revocation action, the caregiver has the right to request an administrative hearing.

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