

TABLE OF CONTENTS

TITLE 22, DIVISION 6

CHAPTER 8.8 FOSTER FAMILY AGENCIES

	<u>Section</u>
Definitions.....	88001

SUBCHAPTER 1. NONMINOR DEPENDENTS

Article 1. General Requirements

General.....	88100
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Article 3. Application Procedures

Plan of Operation.....	88122
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Article 7. Continuing Requirements

Reporting Requirements.....	88161
Intake Procedures.....	88168.1
Criminal Record Clearance.....	88168.2
Needs and Services Plan.....	88168.3
Removal or Discharge Procedures.....	88168.4
Nonminor Dependents' Case Records.....	88170

Amend Section 88001 to read:

88001 DEFINITIONS

88001

In addition to Section 80001, the following shall apply:

- (a) (Continued)
- (b) (Reserved)
- (c) (Continued)
- (d) (Reserved)
- (e) (Reserved)
- (f) (Continued)
- (g) (Continued)
- (h) (Continued)
- (i) (Continued)
- (j) (Reserved)
- (k) (Reserved)
- (l) (Reserved)
- (m) (1) (Continued)
- (n) (1) “Nonminor Dependent” means a child, as described in Section 675(8)(B) of Title 42 of the United States Code under the Federal Social Security Act and as defined in Welfare and Institutions Code section 11400, subsection (v).

HANDBOOK BEGINS HERE

Welfare and Institutions Code section 11400, subsection (v) provides:

“ ‘Nonminor dependent’ means, on and after January 1, 2012, a foster child, as described in Section 675(8)(B) of Title 42 of the United States Code under the federal

HANDBOOK CONTINUES

HANDBOOK CONTINUES

Social Security Act who is a current or former dependent child or ward of the juvenile court who satisfies all of the following criteria:

- (1) He or she has attained 18 years of age but is less than 21 years of age.
- (2) He or she is in foster care under the responsibility of the county welfare department, county probation department, or Indian tribe that entered into an agreement pursuant to Section 10553.1.
- (3) He or she is participating in a transitional independent living case plan pursuant to Section 475(8) of the federal Social Security Act (42 U.S.C. Sec. 675(8)), as contained in the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351).”

HANDBOOK ENDS HERE

- (2) “Nonminor Dependent with Special Health Care Needs” means a person who is age 18, but is under age 21, who meets the requirements of Welfare and Institutions Code section 11400, subsection (v) and the following conditions:
 - (A) Has a medical condition that requires specialized in-home health care.
 - (B) Is one of the following:
 1. Adjudged a nonminor dependent by the court.
 2. Developmentally disabled and receiving services and case management from a regional center.
 3. Incapable of participating in education or training, preparation for employment, or employment due to a medical condition as specified in Welfare and Institutions Code section 11403, subsection (b)(5).

HANDBOOK BEGINS HERE

Welfare and Institutions Code section 11403, subsection (b) provides in part:

- “(b) ...Effective January 1, 2012, a nonminor former dependent child of the juvenile court who is receiving AFDC-FC benefits pursuant to Section 11405 shall be eligible to continue to receive aid up to 19 years of age.

HANDBOOK CONTINUES

HANDBOOK CONTINUES

effective January 1, 2013, up to 20 years of age, and effective January 1, 2014, up to 21 years of age, as long as the nonminor is otherwise eligible for AFDC-FC benefits under this subdivision. This subdivision shall apply when one or more of the following conditions exist:

...(5) The nonminor is incapable of doing any of the activities described in subparagraphs (1) to (4), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor.”

HANDBOOK ENDS HERE

- (3) "Nonrelative Extended Family Member (NREFM)" means any adult caregiver as defined in Welfare and Institutions Code section 362.7.

HANDBOOK BEGINS HERE

Welfare and Institutions Code section 362.7 provides:

"... A 'nonrelative extended family member' is defined as any adult caregiver who has an established familial or mentoring relationship with the child. The county welfare department shall verify the existence of a relationship through interviews with the parent and child or with one or more third parties. The parties may include relatives of the child, teachers, medical professionals, clergy, neighbors, and family friends."

HANDBOOK ENDS HERE

- (14) "Nontreatment Agency" means any foster family agency that certifies a home for the placement of a child pending the adoption of the child by that family. A nontreatment agency does not provide therapeutic services such as those specified in the definition of treatment agency at Section 88001 (t-)(1).

- (o) (Reserved)
- (p) (Continued)
- (q) (Reserved)
- (r) (Reserved)
- (s) (Continued)
- (t) (Continued)

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

NOTE: Authority cited: Section 1502.7 and 1530, Health and Safety Code; Section 17730, Welfare and Institutions Code. Reference: Sections 1502, 1506, 1506.7, 1530.5, and 1538, Health and Safety Code; and Sections 362.7, 11400 (v), (w), and (x), 11403, 11403.2(a)(2), 17710(a), (g) and (i), 17731(c) and 17732(b), Welfare and Institutions Code.

Adopt Subchapter 1, Article 1, and Section 88100 to read:

SUBCHAPTER 1. NONMINOR DEPENDENTS

Article 1. General Requirements

88100 **GENERAL**

88100

- (a) The provisions in this subchapter shall apply to foster family agencies that provide the subsequent placement of nonminor dependents, as defined in Section 88001, subsection (n)(1). Unless specified otherwise, the provisions in Title 22, Chapter 8.8, Foster Family Agencies, shall also apply to nonminor dependents.
- (b) Title 22, Chapter 1, General Licensing Requirements, shall apply to nonminor dependents only as specified.

NOTE: Authority cited: Sections 1502.7 and 1530, Health and Safety Code. Reference: Sections 1501.1 and 1530, Health and Safety Code.

Adopt Article 3 and Section 88122 to read:

Article 3. Application Procedures

88122 **PLAN OF OPERATION**

88122

- (a) In addition to Section 88022, Plan of Operation, the following shall apply to nonminor dependents.
- (b) The plan of operation shall include the following:
 - (1) A statement regarding whether the foster family agency intends to place nonminor dependents.
 - (2) A description of programs or services to be provided by the foster family agency consistent with assisting a nonminor dependent in preparing for emancipation from foster care.

NOTE: Authority cited: Sections 1502.7 and 1530, Health and Safety Code. Reference: Sections 1501, 1501.1, and 1531, Health and Safety Code.

Adopt Article 7 and Section 88161 to read:

Article 7. Continuing Requirements

88161 **REPORTING REQUIREMENTS** **88161**

- (a) In addition to Section 88061, Reporting Requirements, the following shall apply to nonminor dependents.
- (b) The licensee shall submit a report to the licensing agency when a certified family home submits reports, as specified in Section 893161, Reporting Requirements, to the foster family agency as required by the Department.
- (c) The licensee shall report any suspected physical or emotional abuse of a nonminor dependent to the licensing agency by telephone, e-mail, or fax within 24 hours after the event occurs or within the licensing agency's next business day.

NOTE: Authority cited: Section 1502.7 and 1530, Health and Safety Code. Reference: Section 1501, Health and Safety Code.

Adopt Section 88168.1 to read:

88168.1 INTAKE PROCEDURES

88168.1

- (a) Sections 80068, Admission Agreements, 88068, Admission Agreements, and 88068.1, Intake Procedures shall not apply to nonminor dependents.
- (b) The foster family agency shall develop, maintain, and implement intake procedures that meet the requirements specified in this section.
- (c) Prior to new acceptance of a nonminor dependent for subsequent placement, the administrator or social work personnel shall, jointly with the person or agency responsible for placing the nonminor dependent, such as a social worker or probation officer, and the caregiver, complete a Pre-Placement Appraisal in regard to the nonminor dependent for the appraisal as specified in Health and Safety Code section 1501.1, subsection (d).
 - (1) The appraisal shall include, but not be limited to, the following information about the nonminor dependent:
 - (A) Confirmation that the nonminor dependent does not pose a threat to children in a home.
 - (B) Overall health and health history, including any dietary limitations, currently prescribed medications and major illnesses, accidents, hospitalization, or surgery.
 - (C) Physical and developmental disabilities.
 - (D) Mental health and mental conditions.
 - (E) Social factors, including likes, dislikes, interests, and activities.
 - (2) The appraisal shall also specify the ability of the foster family agency to meet the needs of the nonminor dependent.

HANDBOOK BEGINS HERE

Health and Safety Code section 1501.1, subsection (d) provides:

“(d) Pursuant to this section, children with varying designations and varying needs, including, on and after January 1, 2012, nonminor dependents, as defined in subdivision (v) of Section 11400 of the Welfare and Institutions Code, except as provided by statute, may be placed in the same licensed foster family home or with a foster family agency for

HANDBOOK CONTINUES

HANDBOOK CONTINUES

subsequent placement in a certified family home. Children, including nonminor dependents, with developmental disabilities, mental disorders, or physical disabilities may be placed in licensed foster family homes or certified family homes, provided that an appraisal of the child's or nonminor dependent's needs and the ability of the receiving home to meet those needs is made jointly by the placement agency and the licensee in the case of licensed foster family homes or the placement agency and the foster family agency in the case of certified family homes, and is followed by written confirmation prior to placement. The appraisal shall confirm that the placement poses no threat to any child in the home....”

HANDBOOK ENDS HERE

- (d) If a nonminor dependent is accepted for subsequent placement, and within 30 calendar days of the placement of the nonminor dependent in a home, the administrator or social work personnel shall:
- (1) Obtain intake information about the nonminor dependent to be maintained in the records for the nonminor dependent as specified in Section 88170, Nonminor Dependents' Case Records from the person or agency responsible for placing the nonminor dependent, such as a social worker or probation officer.
 - (A) If the information is not completed by the person or agency responsible for placing the nonminor dependent, such as a social worker or probation officer, the administrator or social work personnel shall make telephone and/or written requests for the information to the person or agency responsible for placing the nonminor dependent, such as a social worker or probation officer, and shall record and retain the details of those requests.
 - (B) If the information requested is not received from the person or agency responsible for placing the nonminor dependent, such as a social worker or probation officer, within 30 calendar days, the administrator or social work personnel shall obtain the necessary information from other sources.
 - (2) Request the Health and Education Passport, any Needs and Services Plan, and the Transitional Independent Living Plan for the nonminor dependent from the person or agency responsible for placing the nonminor dependent, such as a social worker or probation officer, if they are not immediately provided.
 - (3) Complete the Needs and Services Plan for the nonminor dependent as specified in Section 88168.3, Needs and Services Plan.
- (e) The licensee shall provide the caregiver with the information and documents specified in subsections (d)(1) through (d)(3).

NOTE: Authority cited: Sections 1502.7 and 1530, Health and Safety Code. Reference: Sections 1501, 1501.1, 1530.91, and 1531, Health and Safety Code.

Adopt Section 88168.2 to read:

88168.2 CRIMINAL RECORD CLEARANCE

88168.2

- (a) A nonminor dependent shall not be subject to criminal record clearance as specified in Health and Safety Code 1502.7, subsection (b)(2).

HANDBOOK BEGINS HERE

Health and Safety Code section 1502.7, subsection (b)(2) provides:

“(b) The regulations shall recognize the status of nonminor dependents as legal adults. At a minimum, the regulations shall provide both of the following...”

- (2) That nonminors described in subdivision (a) in a community care facility shall not be subject to criminal background clearances pursuant to Sections 1522 and 1522.1, for the purposes of facility licensing.”

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1502.7 and 1530, Health and Safety Code. Reference: Sections 1502.7, 1522, 1522.1, and 1531, Health and Safety Code.

Adopt Section 88168.3 to read:

88168.3 **NEEDS AND SERVICES PLAN**

88168.3

- (a) Section 80068.2, Needs and Services Plan does not apply to nonminor dependents.
- (b) Within 30 calendar days from the date a nonminor dependent is placed with a caregiver, the administrator or social work personnel shall complete a Needs and Services Plan for a nonminor dependent consistent with the Transitional Independent Living Plan for the nonminor dependent.
- (c) A nonminor dependent and the caregiver shall participate with the foster family agency in the development of the needs and services plan.
- (d) The Needs and Services Plan shall also contain the following information:
 - (1) Planned length of placement, including the discharge plan for the nonminor dependent as specified in Section 88168.4, Removal or Discharge Procedures.
- (e) The Needs and Services Plan shall be signed by the nonminor dependent, the administrator or social work staff, and the person or agency responsible for placing the nonminor dependent, such as a social worker or probation officer.
- (f) The foster family agency shall provide a nonminor dependent and the caregiver with a copy of the Needs and Services Plan.
- (g) Unless restricted by the Needs and Services Plan or Transitional Independent Living Plan or court order, the foster family agency shall assist the caregiver in encouraging a nonminor dependent to select, seek, and maintain permanent connections between the nonminor dependent, the family and non-relative extended family members of the nonminor dependent, and other caring and committed adults.

NOTE: Authority cited: Sections 1502.7 and 1530, Health and Safety Code. Reference: Sections 1501, 1530, and 1531, Health and Safety Code.

Adopt Section 88168.5 to read:

88168.4 REMOVAL OR DISCHARGE PROCEDURES

88168.4

- (a) Sections 80068.5, Eviction Procedures and 88068.4, Removal and/or Discharge Procedures shall not apply to nonminor dependents.
- (b) The foster family agency shall develop, maintain, and implement written policies and procedures regarding the removal or discharge of a nonminor dependent from a certified family home or licensed foster family home.
 - (1) The written policies and procedures shall be signed and dated by the administrator or social work staff and the nonminor dependent at the time of placement.
 - (2) The signed copy of the written policies and procedures shall be maintained in the records for the nonminor dependent as specified in Section 88170, Nonminor Dependents' Case Records.
- (c) The foster family agency shall not prevent the removal of a nonminor dependent from a home under emergency circumstances by the person or agency responsible for placing the nonminor dependent, such as a social worker or probation officer, or other authorized person or agency.
 - (1) An emergency removal of a nonminor dependent from the home does not require 7 days prior written notice as specified in (d).
 - (2) Emergency circumstances include, but are not limited to, the following:
 - (A) Removal by law enforcement officers when a nonminor dependent is arrested.
 - (B) Removal becomes necessary when the health and safety of the nonminor dependent or others in the home is endangered by the continued presence of the nonminor dependent in the home.
 - (C) Removal for emergency medical or psychiatric care.
 - (3) If a nonminor dependent is removed under emergency circumstances, the foster family agency shall inform the nonminor dependent, the person or agency responsible for placing the nonminor dependent, such as a social worker or probation officer, and the licensing agency that the nonminor dependent shall be or has been removed from the home.
- (d) At the request of the nonminor dependent or at the discretion of the foster family agency, a nonminor dependent may be discharged from the home of the caregiver or the foster family agency with 7 days written notice prior to discharge.

- (1) The reasons for which a nonminor dependent may be discharged from the foster family agency include, but are not limited to, the following:
 - (A) The nonminor dependent reaches the age cap specified in Welfare and Institutions Code section 11403, subsection (a).
 - (B) The foster family agency is no longer able to meet the needs of a nonminor dependent.
- (e) If it becomes necessary to discharge a nonminor dependent from the foster family agency with 7 days written notice prior to discharge, the foster family agency shall:
 - (1) Inform the nonminor dependent, the person or agency responsible for placing the nonminor dependent, such as a social worker or probation officer, and the licensing agency that the nonminor dependent shall be discharged from the foster family agency.
 - (2) Provide written notice to the nonminor dependent that he or she shall be discharged from the foster family agency.
 - (3) Provide a copy of the written notice via e-mail, fax, or overnight mail to the person or agency responsible for placing the nonminor dependent, such as a social worker or probation officer, and the licensing agency on the same day the 7 days notice is provided.
 - (4) State the reason for the discharge of the nonminor dependent in the written notice, with specific facts about any circumstance or event that results in the pending discharge of the nonminor dependent.
 - (5) Except in the circumstance specified in subsection (d)(1)(A), request in the written notice that the nonminor dependent be placed elsewhere.
- (f) If a nonminor dependent submits a complaint against the foster family agency, the licensing agency shall investigate the reason for the discharge.

NOTE: Authority cited: Sections 1502.7 and 1530, Health and Safety Code. Reference: Sections 1501, 1501.1, 1530, and 1531, Health and Safety Code; and Section 11403(a), Welfare and Institutions Code.

Adopt Section 88170 to read:

88170 NONMINOR DEPENDENTS' CASE RECORDS

88170

- (a) Sections 80070, Client Records shall not apply to nonminor dependents.
- (b) Section 88070, Children's Case Records shall apply to nonminor dependents with the exception of subsections (a)(1)(B), (a)(1)(F), (a)(1)(J), (a)(1)(L), and (a)(1)(N).
- (c) The foster family agency shall maintain a separate, complete, and current case record or file in the foster family agency for each nonminor dependent placed with the foster family agency for subsequent placement with a caregiver.
 - (1) A nonminor dependent shall have access to the nonminor dependent's record or file maintained by the foster family agency in a manner that ensures the confidentiality of other records maintained in the foster family agency.
 - (2) The following shall be included in the nonminor dependent's record or file:
 - (A) The name of the nonminor dependent, birth date, and date of placement with the foster family agency.
 - (B) If provided, a summary of the health and education information and records for the nonminor dependent, including mental health information or records as described in Welfare and Institutions Code section 16010.
 - 1. The foster family agency shall maintain information and records provided by physicians and educators including, but not limited to, immunization records and any official grade or progress reports.

HANDBOOK BEGINS HERE

Welfare and Institutions Code section 16010 provides in part:

"(a) When a child is placed in foster care, the case plan for each child recommended pursuant to Section 358.1 shall include a summary of the health and education information or records, including mental health information or records, of the child. The summary may be maintained in the form of a health and education passport, or a comparable format designed by the child protective agency. The health and education summary shall include, but not be limited to, the names and addresses of the child's health, dental, and education providers, the child's grade level performance, the child's school record, assurances that the child's placement in foster care takes into account

HANDBOOK CONTINUES

HANDBOOK CONTINUES

proximity to the school in which the child is enrolled at the time of placement, the number of school transfers the child has already experienced, the child's educational progress, as demonstrated by factors, including, but not limited to, academic proficiency scores, credits earned toward graduation, a record of the child's immunizations and allergies, the child's known medical problems, the child's current medications, past health problems and hospitalizations, a record of the child's relevant mental health history, the child's known mental health condition and medications, and any other relevant mental health, dental, health, and education information concerning the child determined to be appropriate by the Director of Social Services. If any other law imposes more stringent information requirements, then that section shall prevail."

HANDBOOK ENDS HERE

- (C) A Needs and Services Plan for the nonminor dependent, and if provided, the Transitional Independent Living Plan for the nonminor dependent.
- (D) If the Transitional Independent Living Plan for the nonminor dependent is not provided at the time of placement, the Pre-Placement Appraisal as specified in Section 88168.1, subsection (c). This appraisal shall be kept on file regardless of whether the Transitional Independent Living Plan is received at a later date.
- (E) If the cash resources, personal property, and valuables of the nonminor dependent are entrusted to the foster family agency at the time of placement with the foster family agency, an inventory list of these items belonging to the nonminor dependent.
- (F) The foster family agency shall maintain the signed copy of the written removal or discharge policies and procedures and document the removal or discharge of a nonminor dependent from the foster family agency as specified in Section 88168.4, Removal or Discharge Procedures, in the records for the nonminor dependent.

NOTE: Authority cited: Sections 1502.7 and 1530, Health and Safety Code. Reference: Sections 1501, 1531, and 1557.5, Health and Safety Code; Section 16010, Welfare and Institutions Code; and Section 675(1)(C), Title 42, United States Code.