

Reasonable and Prudent Parent Standards

September 2014

Children and youth in foster care are often burdened with laws, policies, guidelines and rules which restrict their activity and/or require cumbersome, and often lengthy, approval processes. Simple activities such as having a sleepover with friends or engaging in a sport or social club at school require approvals which often make it difficult for these children and youth to engage in otherwise normal activities. And while these youth will likely never have what would be considered a 'normal' childhood or adolescence – the fact that they are in foster care in the first place negates that possibility – it is possible to create more normalcy for these children and youth while they are in out of home care by establishing "reasonable and prudent parent" standards to allow foster parents more discretion in allowing these foster youth to engage in what would be considered typical childhood activities.

What is a "Reasonable and Prudent Parent Standard"?

While there are many definitions for what would be considered a reasonable and prudent parent standard, the general concept is that parents are often, if not daily, faced with decisions regarding their children's care which require them to make certain judgments. Parents who are both reasonable and prudent will make decisions carefully, weighing the benefits and the potential risks, to come to a sensible decision that is in the best interests of the child. While there are special considerations needed for children in foster care, oftentimes even for routine or normal activities, foster parents – who provide the daily care and supervision of these children and youth – should be allowed, with the appropriate information and training, to make these decisions which will create more normalcy for these youth.

Establishing "normalcy" means that [foster youth] get to do what their friends do, that they have a chance to pursue their interests and build dreams for their future and, most importantly, that they have a family who cares about them, just like their friends.

And young people know that it is not normal:

- ***To be denied opportunities to play sports, participate in extracurricular activities, or go on a school field trip,***
- ***To live in congregate (or group home) care, with restrictions on everything from brushing your teeth to visiting your sister or brother,***
- ***To have judges, caseworkers, attorneys, and others making major decisions about your life without talking with you or really knowing who you are,***
- ***To languish in foster care year after year, moving from placement to placement, school to school, or***
- ***To suddenly be on your own at age 18, 19, or 20 and expected to live independently.***

What do we want for our own kids? Young people in foster care know that most of us "adults" wouldn't allow our children to experience any of the above.

~Gary Strangler, Casey Youth Opportunities Initiative
Huffington Post, July 2014

Federal Legislation:

In September 2014, Congress passed the “*Prevent Sex Trafficking and Strengthening Families*” Act, H.R. 4980. This law establishes prudent parent standards throughout the United States. According to the Act, a ‘reasonable and prudent parent’ is “characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child.”¹ The law requires states to allow foster parents or ‘caregivers’ to use prudent decisions in the determination to allow their child to participate in age or developmentally-appropriate, “activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity based upon cognitive, emotional, physical and behavioral capacities”¹, extracurricular, enrichment, cultural, and social activities.

The reasonable and prudent parent standard allows caregivers to give their foster children permission to do daily, age appropriate, activities that promote cognitive, emotional, physical and behavioral growth. In addition to providing more normalcy for these youth, these standards, in accordance with the Federal John H. Chafee Foster Care Independence Program, help foster children make the transition to adulthood by providing necessary life skills and developmental growth².

Specific provisions of the law include¹:

- Allowing caregivers/foster parents to make decisions regarding whether the child may engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting 1 or more days.
- Allowing caregivers/foster parents the authority to sign permission slips and arrange for transportation for the child to and from extracurricular, enrichment, and social activities.
- Requiring caregivers to observe and follow court orders and judgments which may impact those decisions. For example, a child cannot go on a weekend trip if it violates a scheduled visitation time, unless otherwise approved.
- Requiring the state to establish a document that describes the rights of the child with respect to education, health, visitation, and court participation for children in foster care who are 14 years or older.
- Requiring child welfare agencies, with assistance from the Secretary of Health Human Services, to amend foster parent training to include “knowledge and skills relating to the reasonable and prudent parent standard”.

Current State Legislation:

Prior to Congress passing the “*Prevent Sex Trafficking and Strengthening Families*” Act, H.R. 4980, a few states had already passed legislation which established prudent parent standards.

California (Passed, 2005) – Prudent Parent Standards, Senate Bill 358, CHAPTER 628, STATUTES OF 2005³

This law allows foster parents to:

- Arrange for occasional short-term (no more than 24 hours) babysitting (\$362.04)⁴ without having to go through a background check. (§1522)⁵

¹ <https://beta.congress.gov/bill/113th-congress/house-bill/4980/text>

² <http://www.acf.hhs.gov/programs/cb/resource/chafee-foster-care-program>

³ http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_0351-0400/sb_358_bill_20050909_enrolled.pdf

⁴ <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=00001-01000&file=360-370>

⁵ <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=hsc&group=01001-02000&file=1520-1526.8>

- Allow their foster child to participate in age-appropriate extracurricular, enrichment, and social activities. (§362.05)⁶

Florida (Passed, 2013) – “Let Kids be Kids” Law, Committee Substitute for House Bill No. 215, CHAPTER 2013-21⁷

This law allows foster parents to:

- Allow their foster child to participate in age-appropriate extracurricular, enrichment, and social activities such as: obtain employment, have contact with family members, have access to phone usage, have reasonable curfews, and travel with other youth or adults.
- Allow their foster child to have his or her picture taken for publication in a newspaper or yearbook; receive public recognition for accomplishments; participate in school or after-school organizations or clubs; participate in community events; learn to drive a car and obtain a learner’s permit and driver’s license; and attend overnight or planned outings.
- Allow their foster child to experience circumstances without direct supervision such as going on trips to the movies, mall, athletic events and work, dating, having part-time employment, baby-sitting, arriving home after school and social outings with friends.

The law further provides that confidentiality requirements for department records shall not restrict the child’s participation in customary activities appropriate for the child’s age and developmental level.

Utah (Passed, 2014) – House Bill 346, 2014 General Session⁸ (Rule R512-310 is pending)

The law and pending rule will allow foster parents to⁹:

- Approve or disapprove a child’s participation in extracurricular, enrichment, or social activities without fear of civil liability.
- Ensure that the child has the safety equipment and any necessary permissions and training necessary to safely engage in each activity the child participates in, including but not limited to the following activities: boating, rock climbing, recreational vehicle use, sports, and camping.

Washington (Passed, 2014) –Engrossed Substitute Senate Bill 6479, 63rd Legislature 2014 Regular Session¹⁰ (Regulations pending)

This law and the pending regulations will allow foster parents to:¹¹

- Provide or withhold permission to allow their foster child to participate in normal childhood activities which include but are not limited to extracurricular, enrichment, and social activities such as clubs, social outings with classmates or friends.
- Allow their children to participate in activities outside their direct supervision for over 24 hours and up to 72 hours.
- Approve activities without fear of civil liability.

⁶ <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=00001-01000&file=360-370>

⁷ <http://laws.flrules.org/2013/21>,

http://www.flsenate.gov/PublishedContent/Session/2013/BillSummary/Children_CF0215cf_0215.pdf

⁸ <http://le.utah.gov/~2014/bills/hbillenr/HB0346.pdf>

⁹ <http://www.rules.utah.gov/publicat/bulletin/2014/20140901/38743.htm>

¹⁰ <http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bills/Session%20Laws/Senate/6479-S.SL.pdf>,

<http://apps.leg.wa.gov/documents/billdocs/2013-14/Pdf/Bill%20Reports/Senate/6479-S.E%20SBR%20FBR%2014.pdf>

<http://www1.dshs.wa.gov/pdf/ca/prudentparenting-memo.pdf>

¹¹ <http://www1.dshs.wa.gov/pdf/ca/prudentparenting-memo.pdf>

Prudent Parent Standards in Nevada:

With the passage of H.R. 4980, Nevada will be required to enact legislation establishing and/or enabling prudent parent standards for agencies which provide child welfare services. In the 2011 Nevada Legislative Session, the Foster Youth Bill of Rights was established, meeting one of the requirements of the new federal legislation. Additionally, Washoe County Social Services has recently drafted “Normalcy” policies which align with the federal standards.

The Children’s Advocacy Alliance recommends that the following provisions be considered for inclusion in Nevada’s Prudent Parent legislation to ensure normalcy for children and youth in foster care, while still keeping the health, safety and best interests of the child as the primary priority.

- Provide a definition of “Reasonable and Prudent Parent” utilizing the guidelines set forth by H.R. 4980.
- Prudent Parent Standards should be applied to decisions by foster parents related to:
 - Hiring a babysitter to care for a foster child for limited periods of time
 - Overnight stays with friends (sleepovers) or family
 - Participation in sports and social activities, including related travel
 - Out of state travel (with foster parents, friends and for school/social activities)
 - Obtaining a driver’s license and parameters of driving a vehicle
 - Obtaining a job/working (including jobs such as babysitting, yard work, etc.)
 - Dating
 - Piercings
 - Hairstyles (other than normal cuts)/coloring hair
- Require that decisions cannot trump existing court orders and/or rulings related to visitation, therapy or other related schedules unless otherwise approved by the child welfare agency and/or the court.
- Require all foster parents, as well as caseworkers and relevant staff, to be provided with training, guidance and technical assistance on Nevada’s Prudent Parent Standards.
- Ensure that foster parents are provided with the information and background on the child/youth necessary to make reasonable and prudent decisions.
- When possible and as practical for the best interests of the child, and particularly for cases where reunification is the goal, foster parents and the child welfare agencies should consult with the biological parents and/or family to take into consideration religious/cultural beliefs which may impact or influence the decisions made by the foster parents.
- Decisions made under this law/regulation should be included in the discussion during CFT team meetings.
- Provide that a caregiver/foster parent is not liable for harm to the child as a result of the event and/or activity approved by the caregiver/foster parent, as long as the caregiver/foster parent has acted in accordance with the reasonable and prudent parent standard.

