

## **Rights of Children and Youth in Foster Care to Have Contact with Relatives and Friends**

### **A Fact Sheet Prepared by the Youth Law Center**

#### **Do children in foster care have the right to contact and visit with family and friends?**

Yes. Children in foster care have the right to visit and contact siblings, family members, and relatives privately, unless prohibited by the court.<sup>1</sup> They also have the right to have social contacts with people outside of the foster care system, such as teachers, mentors, and friends.<sup>2</sup> Unless prohibited by the court, children in foster care have the right to make and receive confidential telephone calls and other electronic communications, and to send and receive unopened mail.<sup>3</sup>

#### **Do children in foster care have the right to have a cell phone and use social media to contact family and friends?**

Yes. Children and youth in foster care have a right to possess, and have privacy in, personal belongings, which may include cell phones.<sup>4</sup> Youth may also have age-appropriate access to the internet, which may include social media, though caregivers may place reasonable restrictions on phone and internet usage under the Reasonable and Prudent Parenting Standard.<sup>5</sup> However, these restrictions cannot be applied to calls, mail, and other electronic communication with relatives, including siblings.<sup>6</sup>

#### **Do children in foster care have a right to live with their siblings?**

Yes. Siblings and half-siblings shall be placed together unless contrary to the safety and well-being of any sibling.<sup>7</sup> If siblings are not placed together in the same home, the social worker or

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<sup>1</sup> Cal. Welf. & Inst. Code § 16001.9(a)(12); Cal. Code Regs., tit. 22, §§ 84072(d)(5) (group homes), 89372(a)(3)(A) (foster family homes).

<sup>2</sup> Cal. Welf. & Inst. Code § 16001.9(a)(14); Cal. Code Regs., tit. 22, §§ 84072(d)(5) (group homes), 89372(a)(3)(B)-(C) (foster family homes).

<sup>3</sup> Cal. Welf. & Inst. Code § 16001.9(a)(13); Cal. Code Regs., tit. 22, §§ 84072(d)(8)-(9) (group homes), 89372(a)(5)-(6) (foster family homes).

<sup>4</sup> Cal. Welf. & Inst. Code § 16001.9(a)(10); Cal. Code Regs. tit. 22, §§ 84072(d)(6)(C) (group homes), 89372(a)(2)(C) (foster family homes).

<sup>5</sup> Cal. Welf. & Inst. Code § 16001.9(a)(16); Cal. Code Regs. §§ 84072(d)(8)(A)(2), 84072.1(d)(4) (group homes), 89372(a)(5) (foster family homes). *See also*, Cal. Welf. & Inst. Code § 362.05 and ACIN I-17-13 for more information on the Reasonable and Prudent Parenting Standard.

<sup>6</sup> Cal. Code Regs. §§ 84072(d)(8)(C) (group homes), 89372(a)(5)(C) (foster family homes).

<sup>7</sup> Cal. Welf. & Inst. Code §§ 306.5, 16002(a)-(b).

probation officer must explain why and what efforts are being made to place them together, or why those efforts are not appropriate.<sup>8</sup> Court reports must include information on placement and the appropriateness of sibling relationships, about which the court will make determinations at periodic status review hearings.<sup>9</sup>

### **What if a child cannot live with their siblings?**

Foster care providers must ensure that children in foster care can contact and visit their siblings unless prohibited by the court.<sup>10</sup> When it is not possible for siblings to live together, the child welfare agency or probation department must make a diligent effort to provide for ongoing and frequent interaction among siblings, unless the court determines by clear and convincing evidence that sibling interaction is contrary to the safety and well-being of any sibling.<sup>11</sup>

### **What if parental rights are terminated?**

If parental rights are terminated, the child welfare agency or probation department must make a diligent effort and prepare a case plan to provide for ongoing and frequent interaction among siblings, as part of developing the permanent plan.<sup>12</sup>

### **What if the child is placed for adoption?**

If the child is placed for adoption, the adoption agency or the California Department of Social Services (CDSS) must take steps to facilitate ongoing sibling contact unless the court determines that sibling interaction is contrary to the child's safety or well-being.<sup>13</sup> These steps include training for prospective adoptive parent(s) about the importance of, and methods for maintaining, sibling relationships, as well as convening a voluntary meeting with the child, siblings, and prospective adoptive parent(s) to determine whether to execute a postadoption sibling contact agreement. With the consent of the adoptive parent(s), the court may include provisions for the adoptive parent(s) to facilitate post adoptive sibling contact in the final adoption order.<sup>14</sup> The order may be enforced by the court, but the order will not affect the validity of the adoption or impair the ability of the adoptive family to move, either within or outside California. The adoptive parent(s) may terminate sibling contact if they determine that it poses a threat to the

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<sup>8</sup> Cal. Welf. & Inst. Code §§ 306.5, 16002(b). *See also*, CDSS Child Welfare Services Manual § 31-206.312.

<sup>9</sup> Cal. Welf. & Inst. Code §§ 366(a)(1)(D)(i), 366.1(g).

<sup>10</sup> Cal. Welf. & Inst. Code §§ 362.1(a)(2), 16001.9(a)(12). *See also*, Cal. Code of Regs., tit. 22, §§ 84072(d)(5)(B) (group homes), 89372(a)(3) (foster family homes).

<sup>11</sup> Cal. Welf. & Inst. Code § 16002(b).

<sup>12</sup> Cal. Welf. & Inst. Code § 16002(b).

<sup>13</sup> Cal. Welf. & Inst. Code § 16002(e).

<sup>14</sup> Cal. Welf. & Inst. Code § 366.29(a).

health, safety, or well-being of the adopted child; however, they must notify the court in writing within 10 days and specify the reasons why continued contact poses such a threat.<sup>15</sup>

### **What about other people who are important to the child?**

For children who are at least 10 years old and have been in out-of-home placement for at least six months, the case plan and court reports must include identification of individuals, other than the child's siblings, who are important to the child and the actions necessary to maintain the child's relationships with those individuals, unless it would not be in the child's best interest to do so.<sup>16</sup> The social worker or probation officer must ask any child who is at least 10 years old and who has been in out-of-home placement for at least six months, to identify important individuals, and, as appropriate, may also ask any other child or the Child and Family Team to provide that information. The court must determine whether the child welfare agency has made efforts to maintain the child's relationships with these individuals, consistent with the child's best interest, and, if ordering that the child remain in foster care, may make any appropriate order to ensure that those relationships are maintained.<sup>17</sup>

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<sup>15</sup> Cal. Welf. & Inst. Code § 366.29(b).

<sup>16</sup> Cal. Welf. & Inst. Code §§ 16501.1(j), 366(a)(1)(B), 366.1(j), 366.21(c).

<sup>17</sup> Cal. Welf. & Inst. Code §§ 366(a)(1)(B), 366.22(a)(3).