

NOTICE OF INTENT

Department of Children and Family Services

Division of Programs

Licensing Section

Reasonable and Prudent Parent Standards

(LAC 67:V.6703, 6708, 7105, 7111, 7305, 7311, and 7313)

In accordance with the provisions of the Administrative Procedures Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V, Subpart 8, Chapter 67 Maternity Home, Sections 6703 and 6708; Chapter 71 Child Residential Care Class A, Sections 7105 and 7111; and Chapter 73 Child Placing Agencies, Sections 7305, 7311, and 7313.

Pursuant to Public Law 113-183 and Act 124 of the 2015 Regular Legislative Session, the use of the "reasonable and prudent parent standard" is permitted, under certain circumstances, by a foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed. Reasonable and prudent parent standard is the standard 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, that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. Standards mandated in this rule shall be met at all times. Any violation of the provisions of this Rule may result in sanctions against the facility, including but not limited to, removal of any and all children placed in or by the facility; ineligibility to receive state or

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federal funding for the care and/or supervision of such children or for services related thereto, whether directly or indirectly; revocation of the facility's license; and legal action to immediately remove any child in the facility's care or under the facility's supervision.

The department considers this amendment necessary in order to comply with Public Law 113-183 and Act 124 of the 2015 Regular Legislative Session.

This action was made effective by an Emergency Rule dated and effective September 1, 2015.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 67. Maternity Home

§6703. Definition

A. ...

B. Additional Definitions

1. Definitions, as used in this Chapter:

Age or developmentally appropriate activities or items-
activities or items that are generally accepted as suitable for
children of the same chronological age or level of maturity or
that are determined to be developmentally appropriate for a
child, based on the development of cognitive, emotional,
physical, and behavioral capacities that are typical for an age
or age group; and in the case of a specific child, activities or
items that are suitable for the child based on the developmental
stages attained by the child with respect to the cognitive,
emotional, physical, and behavioral capacities of the child.

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Reasonable and prudent parent standard - standard that a caregiver shall use when determining whether to allow a child in foster care under the responsibility of the State to participate in extracurricular, enrichment, cultural, and social activities. The standard 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.

Reasonable and prudent parent training - training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

B.2 - B.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), repromulgated by the Department of Social Services, Office of

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the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:799, 835 (April 2010), repromulgated LR 36:1275 (June 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:2521 (November 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:968 (April 2012), amended LR 41:

§6708. General Provisions

A. - B.4. ...

C. Reasonable and Prudent Parent Standard

1. The provider shall designate in writing at least one on-site staff person as the authorized representative to apply the reasonable and prudent parent standard to decisions involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be at the licensed location at all times during the facility's hours of operation. Licensing shall be notified in writing within five calendar days if there is a change to one of the designated representatives.

2. The authorized representative shall utilize the reasonable and prudent parent standard when making any decision involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities.

3. The authorized representative shall receive training or training materials shall be provided on the use of the reasonable and prudent parent standard. Documentation of the reasonable and prudent parenting-training shall be maintained. The reasonable and prudent parent training or

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training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

- a. Age or developmentally appropriate activities or items;
- b. Reasonable and Prudent Parent Standard;
- c. Role of the provider and of DCFS; and
- d. Allowing for normalcy for the child while respecting the parent's residual rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:969 (April 2012), amended LR 41:

Chapter 71. Child Residential Care, Class A

§7105. Definitions

A. As used in this Chapter:

Age or developmentally appropriate activities or items-
activities or items that are generally accepted as suitable for
children of the same chronological age or level of maturity or
that are determined to be developmentally appropriate for a
child, based on the development of cognitive, emotional,
physical, and behavioral capacities that are typical for an age
or age group; and in the case of a specific child, activities or
items that are suitable for the child based on the developmental
stages attained by the child with respect to the cognitive,
emotional, physical, and behavioral capacities of the child.

Reasonable and prudent parent standard - standard that a
caregiver shall use when determining whether to allow a child in
foster care under the responsibility of the State to participate
in extracurricular, enrichment, cultural, and social activities.

Pursuant to RS 49:983 the Office of the State Register may make technical changes to proposed rule submissions in preparing the Louisiana Register and Louisiana Administrative Code.

The standard 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.

Reasonable and prudent parent training - training that includes knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities. This includes knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child and knowledge and skills relating to applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:805 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:976 (April 2012), amended LR 41:

§7111. Provider Responsibilities

A. - A.9.a.v. ...

A.10. Reasonable and Prudent Parent Standard

a. The provider shall designate in writing at least one on-site staff person as the authorized representative

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to apply the reasonable and prudent parent standard to decisions involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be at the licensed location at all times during the facility's hours of operation. Licensing shall be notified in writing within five calendar days if there is a change to one of the designated representatives.

b. The authorized representative shall utilize the reasonable and prudent parent standard when making any decision involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities.

c. The authorized representative shall receive training or training materials shall be provided on the use of the reasonable and prudent parent standard. Documentation of the reasonable and prudent parent training shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

- i. Age or developmentally appropriate activities or items;
- ii. Reasonable and Prudent Parent Standard;
- iii. Role of the provider and of DCFS; and
- iv. Allowing for normalcy for the child while respecting the parent's residual rights.

B. - H.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Service, LR 36:811 (April 2010), amended by the Department of Children and Family Services,

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Division of Programs, Licensing Section, LR 38:979, 984 (April 2012), amended LR 41:

Chapter 73. Child Placing Agencies

§7305. Definitions

Age or developmentally appropriate activities or items-
activities or items that are generally accepted as suitable for
children of the same chronological age or level of maturity or
that are determined to be developmentally appropriate for a
child, based on the development of cognitive, emotional,
physical, and behavioral capacities that are typical for an age
or age group; and in the case of a specific child, activities or
items that are suitable for the child based on the developmental
stages attained by the child with respect to the cognitive,
emotional, physical, and behavioral capacities of the child.

Reasonable and prudent parent standard - standard that a
caregiver shall use when determining whether to allow a child in
foster care under the responsibility of the State to participate
in extracurricular, enrichment, cultural, and social activities.
The standard 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.

Reasonable and prudent parent training - training that
includes knowledge and skills relating to the reasonable and
prudent parent standard for the participation of the child in
age or developmentally appropriate activities. This includes
knowledge and skills relating to the developmental stages of the
cognitive, emotional, physical, and behavioral capacities of a
child and knowledge and skills relating to applying the standard

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to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities. Activities include sports, field trips, and overnight activities lasting one or more days. Also included is knowledge and skills in decisions involving the signing of permission slips and arranging of transportation for the child to and from extracurricular, enrichment, and social activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:821 (March 2011), amended LR 41:

§7311. Provider Responsibilities

A. - A.7.a.iii. ...

A.8. Reasonable and Prudent Parent Standard

a. The provider shall designate in writing at least one on-site staff person as the authorized representative to apply the reasonable and prudent parent standard to decisions involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities. The staff person(s) designated as the authorized representative shall be at the licensed location at all times during the facility's hours of operation. Licensing shall be notified in writing within five calendar days if there is a change to one of the designated representatives.

b. The authorized representative shall utilize the reasonable and prudent parent standard when making any decision involving the participation of a child who is in foster care and placed in the facility in age or developmentally appropriate activities.

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c. The authorized representative shall receive training or training materials shall be provided on the use of the reasonable and prudent parent standard. Documentation of the reasonable and prudent parent training shall be maintained. The reasonable and prudent parent training or training materials, as developed or approved by the DCFS, shall include, but is not limited to the following topic areas:

- i. Age or developmentally appropriate activities or items;
- ii. Reasonable and Prudent Parent Standard;
- iii. Role of the provider and of DCFS;
- iv. Allowing for normalcy for the child while respecting the parent's residual rights.

B. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:828 (March 2011), amended LR 41:

§7313. Foster Care Services

A. - B.3.c. ...

B.3.d. Documentation of reasonable and prudent parent training for all foster parents shall be maintained. This training shall be completed or training materials provided prior to certification for all foster parents certified after August 31, 2015. All foster parents certified on or prior to September 1, 2015 shall receive training or be provided training materials prior to September 29, 2015. Reasonable and prudent parent training or training materials, as developed or approved by DCFS, shall include, but is not limited to the following topic areas:

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- i. Age or developmentally appropriate activities or items;
- ii. Reasonable and Prudent Parent Standard;
- iii. Role of the foster parents and of DCFS;
- iv. Allowing for normalcy for the child while respecting the parent's residual rights.

B.4. - C.5.b.vii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:833 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:985 (April 2012), amended LR 41:

Family Impact Statement

The proposed rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Impact Statement

The proposed rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed rule is not anticipated to have an impact on providers of services funded by the state as described in Public Law 113-183 and Act 124 of the 2015 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, December 29, 2015, to Kim Glapion-Bertrand, Deputy Secretary of

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Programs, Department of Children and Family Services, P.O. Box 3776, Baton Rouge, LA 70821.

Public Hearing

A public hearing on the proposed Rule will be held on December 29, 2015 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-129, Baton Rouge, LA beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call 225-342-4120 (Voice and TDD).

Suzy Sonnier
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Person Preparing Statement:	<u>Angie Badeaux</u>	Department:	<u>Children and Family Services</u>
Phone:	<u>225-342-4350</u>	Office:	<u>Division of Programs</u>
Return Address:	<u>627 N. 4th St., P.O. Box 3078 Baton Rouge, LA 70802</u>	Rule Title:	<u>Reasonable and Prudent Parent Standards</u>
		Date Rule Takes Effect:	<u>March 1, 2016</u>

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

In accordance with Public Law 113-183 and Act 124 of the 2015 Regular Legislative Session, this rule proposes to amend LAC 67:V, Subpart 8, Chapter 67 – Maternity Home, Chapter 71 – Child Residential Class A, and Chapter 73 – Child Placing Agencies to implement the Reasonable and Prudent Parent Standard that supports normalcy for children in foster care.

The proposed rule requires each maternity home, child residential facility and child placing agency serving children in the foster care system to apply the reasonable and prudent parent standard to their decisions whether to allow a child to participate in age-or-developmentally appropriate extracurricular, enrichment, cultural, and social activities, which creates normalcy for children.

The only cost of this proposed rule is the cost of publishing rulemaking, which is estimated to be approximately \$5,112 (\$1,278 State General Funds and \$3,834 Federal) in FY 15-16. This is a one-time cost that is routinely included in the department’s annual operating budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no effect on state or local revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This proposed rule will have no impact on the estimated costs of any persons or non-governmental facilities. Training is currently required prior to employment as well as annually for existing staff. This proposed rule requires an additional training topic – Reasonable and Prudent Parent Standard, to be completed with the existing training requirements. The department will provide this training within their existing training budget at no cost to the facilities listed above.

IV. ESTIMATED IMPACT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment.

Signature of Agency Head
or Designee

Date

LEGISLATIVE FISCAL OFFICER
OR DESIGNEE

Kim Glapion-Bertrand, Deputy Secretary
Typed Name and Title of Agency Head

DATE OF SIGNATURE

DCFS Undersecretary