
**ORANGE COUNTY SOCIAL SERVICES AGENCY
CFS OPERATIONS MANUAL**

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Revised: August 17, 2007
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Number: K-0104

Bodies of Water Enclosures/Covers

Purpose To provide guidelines for enclosure or coverage requirements of some bodies of water on the premises of a home in which a placement is, or may be, made.

Approved This policy was approved by Gary Taylor, Director of CFS, on March 11, 2015. *Signature on file.*

Most Recent Revision This revision of the Policy and Procedure (P&P) clarifies the documentation needed when requesting Deputy Director (DD) approval for enclosure waivers or fence installation funding and the applicability to placements involving non-minor dependents (NMDs).

Background Children and Family Services (CFS) is responsible for meeting legal mandates regarding the inaccessibility of some bodies of water on the premises of the home of an out-of-home caregiver or prospective out-of-home caregiver prior to issuing a Foster Family Home (FFH) license, or approving a relative/non-relative extended family member (NREFM) placement or reassessment.

Definitions **Reasonable and prudent parent standard:** Standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interest.

Pursuant to Health and Safety Code (HSC) Section (§) 115921:

Enclosure: A fence, wall, or other barrier that isolates a swimming pool from access to the home.

Approved safety pool cover: A manually or power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials (ASTM), in compliance with standard F1346-91.

Exit alarms: Devices that make audible, continuous alarm sounds when any door or window that permits access from the residence to the pool area that is without any intervening enclosure, is opened or left ajar. Exit alarms may be battery operated or may be connected to the electrical wiring of the building.

POLICY

General Policy Pursuant to California Department of Social Services (CDSS) Community Care Licensing (CCL) Manual of Policies and Procedures (MPP) Title 22, Division 6, Chapter 9.5, Article 3, § 89387(d), swimming pools, fixed-in-place wading pools, hot tubs, spas, or similar bodies of water located on an out-of-home caregiver's property will be inaccessible to children supervised by CFS who are:

- Under 10 years of age
- Or–
- Developmentally, mentally, or physically disabled

Per CDSS CCL MPP Title 22, Division 6, Chapter 9.5, Subchapter 1, Article 3, § 893187(e), the guidelines within this P&P apply to caregivers who accept placement of a non-minor dependent (NMD) who is developmentally, mentally, or physically disabled, or a NMD's child who meets the age or disability criteria listed above.

Note: If enclosure is not required for a dependent child as specified above, but the caregiver has a biological or other non-dependent child residing in the home that is under aged 10 or delayed, CFS staff will encourage, *yet not require*, the caregiver to follow the guidelines outlined in this P&P.

Inaccessibility will be assured by using at least one of the following safety features (described in policy sections below):

- Enclosure
- Approved safety pool cover

**Staff
Responsibilities**

As authorized by HSC § 1511, staff responsible for licensing FFHs or completing relative/NREFM assessments and reassessments will follow the mandates set forth in this P&P when licensing or assessing a home with a swimming pool or similar body of water. See CFS P&Ps:

- [Relative/NREFM Placement Assessments \(K-0105\)](#)
- [Foster Home Licensing \(K-0604\)](#)

Staff with placement responsibilities will apply the guidelines of this P&P when placing a child under 10 years of age, or a child or NMD who is developmentally, mentally, or physically disabled into a home which contains a pool or other similar body of water.

Per CFS policy, staff responsible for the investigation of child abuse or neglect referrals will educate families about potential risks related to pools or other large bodies of water as well as the benefits of enclosures or other safety measures, as applicable.

Note: Emergency or Differential Response (ER/DR) Senior Social Workers (SSWs) considering an emergency placement of a child under 10 years of age, or a child who is developmentally, mentally, or physically disabled into a relative/NREFM home which contains a pool or other similar body of water, will obtain authorization from the Deputy Director (DD) of Intervention and Prevention Services prior to placement. This authorization is required during and after regular business hours, on weekends, and on holidays.

When applicable, any CFS staff who visits the home of an out-of-home caregiver (regardless of the primary purpose of the visit) will assess whether the guidelines in this P&P are being met. Per HSC § 1536.1, if concerns are identified which result in a quality of care issue (i.e., violation to regulation or law related to physical residence, lack of supervision, personal rights, corporal punishment, food, clothing, or shelter issue), the staff identifying the concern will notify one or more of the following, as appropriate:

- Child Abuse Registry (CAR)
- Foster Home (FH) Licensing
- Relative Assessment Unit (RAU) worker
- Foster Family Agency (FFA) worker

Use of Reasonable and Prudent Parent Standard

In accordance with CDSS CCL MPP Title 22, Division 6, Chapter 9.5, Article 3, § 89387(d)(1), caregivers will use the reasonable and prudent parent standard when determining whether a foster child will have access to fish ponds, fountains, creeks, and similar bodies of water (e.g., bird bath). **Note:** Per CDSS CCL Title 22, Division 6, Chapter 9.5, Subchapter 1, Article 1, § 892100, the reasonable and prudent parent standard does not apply to NMDs.

CFS staff (i.e., Assessing/Placing SSW, Licensing SSW, Assigned SSW, RAU social worker, Foster Care Liaison) will be available to caregivers, as needed, to discuss concerns regarding a foster child's access to fish ponds, fountains, creeks, and similar bodies of water.

In addition, CFS staff will encourage caregivers to document any application of the reasonable and prudent parent standard in making determinations for a foster child's access to fish ponds, fountains, creeks, and similar bodies of water in the foster child's records maintained by the caregiver.

Factors to consider when applying the reasonable and prudent parent standard in relation to fish ponds, fountains, creeks, and similar bodies of water include yet are not limited to:

- Distance of the body of water from the home
- Depth and water flow
- Level of supervision a child requires
- Child's age, maturity, and developmental level
- Child's ability to swim and/or knowledge of water safety
- The nature and inherent risk of harm

Enclosure Requirements

Per CDSS CCL MPP Title 22, Division 6, Chapter 9.5, Article 3, § 89387(d)(2)(A), a pool/similar body of water may be isolated from access to the home by an approved enclosure defined in HSC § 115921(c) which will not obscure the pool/similar body of water from view. As specified in HSC § 115923, the enclosure will have all of the following characteristics:

- A. Any access gates through the enclosure open away from the swimming pool, and are self-closing with a self-latching device placed no lower than 60 inches above the ground.
- B. A minimum height of 60 inches.
- C. A maximum vertical clearance from the ground to the bottom of the enclosure of two inches.

- D. Gaps or voids, if any, do not allow passage of a sphere equal to or greater than four inches in diameter.
- E. An outside surface free of protrusions, cavities, or other physical characteristics that would serve as handholds or footholds that could enable a child below the age of five years to climb over.

Note: If removable mesh pool fencing as described in HSC § 115922(a)(2) is used as an enclosure, the caregiver will ensure it is installed and maintained according to the manufacturer's specifications.

Safety Pool Cover Requirements

Per CDSS CCL MPP Title 22, Division 6, Chapter 9.5, Article 3, § 89387(d)(2)(B), a pool/similar body of water may be equipped with an approved safety pool cover as defined in HSC 115921(d). Pool covers will be supported by flotation devices. **Note:** Per CFS policy, safety nets are not considered an approved safety pool cover.

Criteria to consider in approving safety pool covers include:

- A. Embossed or labeled as meeting ASTM standard "F1346-91."
- B. Able to fully support the weight of an adult without sagging or collecting of water such that it becomes a hazard. **Note:** CFS staff will observe a demonstration of this standard.
- C. Require a tool to remove. This usually takes the form of a lock and key, but some covers require a custom tool for removal.
- D. Contain gaps less than four inches at all points around the perimeter when latched and lifted.

Exit Alarms

Per CDSS CCL MPP Title 22, Division 6, Chapter 9.5, Article 3, § 89387(d)(2)(C), when an assessing social worker and supervisor determine it is not feasible for a caregiver to comply with the enclosure or safety cover requirements outlined above (e.g., fencing not possible due to physical limitations of the pool location and the home), a combination of enclosure and exit alarms, as defined in HSC § 115921(e) on doors or windows that provide direct access to the pool may be authorized.

All windows in rooms that provide direct access from the home to the swimming pool/similar body of water will be secured so that they cannot open more than four inches; unless they are sleeping rooms, then an exit alarm must be used.

Required DD Approval:

As permitted by CDSS CCL MPP Title 22, Division 6, Chapter 9.5, Article 3, § 89387(d)(2)(D), safety precautions other than an approved enclosure or pool cover may be considered for relative/NREFM placements on a temporary basis with administrative approval. If an assessing SSW is requesting a waiver for the use of alternate safety measures, approval from the DD of Family Assessment and Shelter Services is required.

Due to the immediacy of many assessments, initial waiver approval may be requested via email with subsequent signature obtained on *Swimming Pool/Similar Bodies of Water Authorization—Relative/NREFM Assessment (F063-04-817C)*. Approval requests will describe the alternate safety measure and how the plan prevents access to the body of water. Whenever possible, attach photographs or a sketch of the body of water and surrounding yard/property. See [Attachment 1—Guide for Bodies of Water Waiver Requests](#) for guidance on requesting a waiver, including recommended supporting documentation.

**Additional
Safety
Measures**

Per CDSS CCL MPP Title 22, Division 6, Chapter 9.5, Article 3, § 89387(e–g), the following additional safety measures apply:

- A. Above-ground pools will be made inaccessible when not in use by removing or making the ladder inaccessible and, if the pool is less than 60 inches in height, by the use of a barricade. Any barricade, whether or not it includes the above-ground pool structure itself, shall meet the requirements for a pool enclosure as outlined above.
- B. Pools that cannot be emptied after each use will have an operative pump and filtering system.
- C. An adult who has the ability to swim will provide supervision at all times when children are using a pool or similar body of water which requires the rescuer’s ability to swim. Further, per CFS policy, staff will encourage caregivers to provide age and developmentally appropriate instruction to a child on water safety skills, including how to swim, or access other swim instruction for the child.

Documentation Per CFS policy, staff will document assessment of swimming pools and similar bodies of water as follows:

- Diversion and RAU: Swimming Pool/Similar Bodies of Water Authorization—Relative/NREFM Assessment (F063-04-817C)
 - FH Licensing: Facility Review Tool—Foster Family Homes (LIC 860 C)
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REFERENCES

Attachments and CWS/CMS Data Entry Standards Hyperlinks are provided below to access attachments to this P&P and any CWS/CMS Data Entry Standards that are referenced.

- [Attachment 1—Guide for Bodies of Water Waiver Requests](#)
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Hyperlinks Users accessing this document by computer may create a direct connection to the following references by clicking on the link provided.

- CFS P&P [Relative/NREFM Placement Assessments \(K-0105\)](#)
 - CFS P&P [Foster Home Licensing \(K-0604\)](#)
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Other Sources Other printed references include the following:

None.

FORMS

Online Forms Forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

Form Name	Form Number
Facility Review Tool—Foster Family Homes	LIC 860 C
Swimming Pool Authorization/Similar Bodies of Water Authorization —Relative/NREFM Assessment	F063-04-817C

Hard Copy Forms

Forms that may be completed in hard copy (including multi-copy NCR forms) are listed below. ***For reference purposes only***, links are provided to view these hard copy forms, where available.

Form Name	Form Number
Relative/NREFM Acco	F063-25-1119

CWS/CMS Forms

Forms that may **only** be obtained in CWS/CMS are listed below. ***For reference purposes only***, links are provided to view these CWS/CMS forms, where available.

Form Name	Form Number
None.	

Brochures

Brochures to distribute in conjunction with this policy may include:

Form Name	Form Number
None.	

LEGAL MANDATES

[California Department of Social Services \(CDSS\) Community Care Licensing \(CCL\) Manual of Policies and Procedures \(MPP\) Title 22, Division 6, Chapter 9.5, Article 3, Section \(§\) 89387\(d\)](#) mandates caregivers who accept placement of a child under ten years of age, or a child who is developmentally, mentally, or physically disabled, ensure inaccessibility to some bodies of water.

[CDSS CCL MPP Title 22, Division 6, Chapter 9.5, Subchapter 1](#) provides regulations for the placement of non-minor dependents in licensed and certified homes.

[CDSS CCL MPP Title 22, Division 6, Chapter 9.5, Article 3, § 89377](#) provides guidance to caregivers on the application of the reasonable and prudent parent standard.

[Health and Safety Code \(HSC\) § 115921](#) defines swimming pool “enclosure”, “approved safety pool cover”, and “exit alarms.”

[HSC § 115922\(a\)\(2\)](#) outlines removable mesh pool fencing specifications, including use in conjunction with a self-closing and self-latching gate that can accommodate a key lockable device.

[HSC § 115923](#) mandates specific characteristics for swimming pool enclosures.

[HSC § 1511](#) authorizes CDSS may contract with a county agency to assume licensing and approval responsibilities. Memorandum of Understanding (MOU) E65018 (1995) established the Social Services Agency as the licensing entity for foster family homes in Orange County.

[HSC § 1536.1](#) mandates placement agencies notify the appropriate agency of known or suspected incidents that would jeopardize the health or safety of residents in the home or facility.

[Welfare and Institutions Code \(WIC\) § 362.04](#) defines reasonable and prudent parent standard.