Tennessee Department of Children's Services **Protocol for Reasonable and Prudent Parenting**

Supplemental to DCS Policy: 16.3, Desired Characteristics of Foster Parents and 16.8, Responsibilities of Approved Foster Homes

The Preventing Sex Trafficking and Strengthening Families Act (HR 4980) signed into law September 29, 2014, attempts to expand the opportunities for youth in foster care to participate in developmentally appropriate activities such as field trips, sleep overs and other extracurricular activities. These experiences allow youth to build skills, while developing talents, and healthy relationships with peers and supportive adults. New experiences and opportunities--even healthy risk taking--helps youth discover who they are and learn important decision making skills when they are supported by nurturing caregivers. The new law requires states to support the healthy development of youth in care through implementing "reasonable and prudent parent" guidelines for decisions made by foster parents or caregivers.

***This protocol applies to children in all placement types. For application of this protocol in congregate care setting, the term "caregiver" is used to represent employees serving the child/youth.**

I. Exercising the Reasonable and Prudent Parent Standard.

1. Considerations in Exercising the Standard

a) DCS & contract agencies adhere to the practice of care provided by a foster parent or caregiver in determining whether to allow a child or youth in his or her care to participate in age and developmentally appropriate activities. Examples of such activities include, but are not limited to, extracurricular enrichment, and social activities that may include: dating, outdoor activities, "hanging out" or "sleepovers" with friends, art, poetry, prom, sports, clubs, recreation, vocational & volunteer activities, hobbies, religious/cultural events, field trips, driver's education, birthday parties, etc.

b) As discussed in more detail below, this may also include activities that support a youth in exploration of their cultural, religious, racial, or ethnic identity as well as their sex or gender orientation.

c) The reasonable and prudent parent standard is characterized by careful and thoughtful, parental decision-making that is intended to maintain a child's health, safety and best interest while encouraging the child's emotional, academic and developmental growth. This will generally be impacted by the child's length of stay in the placement and the foster parent's understanding of the child's strengths and needs. Parents need to talk, read and interact with their children, but what parents really need to know is how they interact makes all the difference in the development of their children's vocabulary, comprehension and critical thinking skills.

d) Foster parents and caregivers should weigh eight factors when considering the following guidelines:

- The overall age, maturity and developmental level of the child;
- The potential risk and appropriateness of the activity;
- The best interest of the child;

- The importance or impact on the child's growth;
- The relevance to a family-like experience;
- The behavioral, emotional and risk-taking history of the child and any safety plans;
- The wishes and interests of the youth; and
- How the experience for the youth might impact the foster family as a whole.

e) Foster parents and caregivers are expected to assist in the healthy development of children/youth in care through implementing "reasonable and prudent parent "decision making that supports health, safety and best interest of the child. These decisions can include opportunities for healthy risk-taking like those typically made by parents of children who are not in foster care. The protocol intends to promote "normalcy" and the ability to engage in healthy developmentally appropriate activities that promote well-being for all youth in care. The reasonable and prudent parent standard should take into account that healthy risk taking is part of growing up.

f) Information regarding a child/youth's activities is regularly communicated with birth family members (when there is a birth family) within the communication plan established by the team and generally based on decisions of the team.

g) Foster parents and caregivers provide a nurturing environment that encourages emotional and developmental growth and provides the most family-like setting experience as possible.

h) Foster parents and caregivers may, at any time, consult with members of the Child and Family Team (CFTM) during the decision making process if they are unsure or confused in regard to the application of applying the guidelines. They also consult with the youth or child's team if assistance or training is needed in regard to how to support youth with issues related to cultural, ethnic, or religious identify as well as sexual/gender orientation concerns. Foster parents and caregivers provide a nurturing, supportive, and non-discriminatory environment for youth, but are encouraged to seek support when they need assistance in doing so.

i) Foster parents and caregivers build supports within their families, friends and community networks to support growth opportunities for the children/youth in their care.

j) Foster parents and caregivers build and promote protective factors in reducing the incidence of child abuse and neglect; those protective factors include:

- **Youth Resilience**- helping youth manage stress and enhance their ability to function well when faced with stressors, challenges, or adversity; the outcome is personal growth and positive change.

- **Social Connections**-helping them have healthy, consistent relationships with people, institutions, the community, and empowered to make sound decisions.

- **Knowledge of Child & Adolescent Development**- understanding the unique aspects of adolescent development; implementing developmentally and contextually appropriate best practices and helping the youth understand their current development. Refer to DCS Policy ***20.8, Reproductive Health Education and Services*** for more guidance on health education.

- **Child's Social and Emotional Competence**-helping them develop skills and attitudes that are essential for forming an independent identity and preparing for a productive, responsible, and satisfying adulthood.

- **Concrete Supports in Times of Need-** helping the youth understand the importance of asking for help and advocating for oneself, receiving a quality of service designed to preserve youths' dignity, provide opportunities for skill development, and promote healthy body and mind development.

2. Encouraging Access to Age-Appropriate Activities and Promoting "Normalcy"

The goal of exercising the reasonable and prudent parent standard in the child welfare context is to try to normalize the experience of youth in care so that they have the opportunities and experiences that all youth do that mark a healthy childhood and adolescence. Foster parents and caregivers should keep the following in mind as they exercise the standard:

a) **Encourage the child/youth, dependent upon his/her age and maturity level, to engage in** appropriate activities such as social and extracurricular events, service/learning or volunteering, vocational opportunities or employment, contact with family members, and prudent phone use.

b) Understand that criminal background checks, delinquency and abuse/neglect history **checks may not be** necessary for dating, outings, activities with friends, families, church groups or other normal school or community activities. Foster Parents should use their best judgment (defined as "would you leave your biological child with this person?") when determining if an individual is an appropriate supervisor for the child/youth. Contact the FSW or other team members when there are questions about allowable activities at any time.

  - DCS cannot pay an individual for providing supervision or care for a custodial child for the purpose of an outing/overnight stay.

c) Any out of state, out of country or continuous travel is discussed and documented. Notify court /Guardian Ad Litum (GAL) when appropriate for unruly/delinquent youth, to receive permission for trips out of state/country. Use form ***CS-0679, Authorization DCS Child to Travel out of State/Country***, as appropriate.

d) DCS is to be notified when any activities take the child out of the foster home for forty-eight (48) hours or more; this includes respite and allowable travel. Contact the FSW or other team members when there are questions about allowable activities when traveling out of state or out of the country. Foster parents are required to complete form ***CS-0679*** quarterly when taking routine trips right over the state lines (grocery shopping, or recreation).

e) Establish reasonable, age appropriate boundaries and curfews and encourage respect for boundaries and curfews. Child/youth understands the parental expectations regarding curfew.

f) Refrain from the use of terminology such as “foster child”, “Level 2 child”, “Level 3 child” and “group home child” outside of the team setting. Ask the child/youth what they want to be called.

g) School is identified as a safe place, therefore limit professional visits to the school unless it’s an emergency or a necessary educational meeting, to avoid stigma. DCS and partners should strive to promote less academic interference by attempting to schedule court appearances and/or CFTM’s that are conducive to the youth’s academic schedule. Parent involvement is encouraged and can be defined as the active, ongoing participation of a foster parent in the education of his or her child. Parents can demonstrate involvement at home by reading with their children, helping with homework, and discussing school events or at school by attending functions or volunteering in classrooms.

h) Allow participation in appropriate computer or electronic activities, including cell phones usage and social media with the permission or supervision of foster parents.

i) Ensure allocation of age appropriate allowances and encourage appropriate money management.

j) Look for opportunities to teach independence, starting in childhood. Giving choices, encouraging (reasonable) risk-taking and allowing a child to make mistakes are all ways that parents build the skills that make independence possible.

k) Avoid the use of confidentiality requirements of department records to restrict the child’s participation in customary activities appropriate for the child’s age and developmental level. For example, encourage pictures taken for publication in a newspaper or yearbook or for purposes of public recognition for or being part of a team or accomplishments if not identified as a foster child. Ask the child what they want.

l) Afford the child/youth opportunities for social and recreational development that are normal life experiences. The child/youth may attend overnight or planned activities if the activity is determined by the licensed foster home to be safe and appropriate. The foster parent will have knowledge of where and with whom the child is staying and the type of supervision and care the child will be receiving before approving an outing or overnight activity.

m) Youth 16 and older should have the opportunity to obtain driver’s training and a license, when appropriate. Please refer to ***Driver’s License Guide***.

n) DCS may utilize Delegated Purchase Authority (DPA) and Independent Living Wrap Around Funding to support pro-social and extracurricular activities for all ages. (Refer to the ***Independent Living Wraparound Services Grid*** for eligibility and funded activities). This is not limited to just

school activities. Consider use of TFACA Walk Me Home Funding or Community Advisory Boards (CABS) for assistance.

o) Positive reinforcement for children is encouraged and FSW's and child placing providers should use Independent Living Wrap Around good grades incentives as rewards for good grades for youth 14 and older.

3. Guide for Normalcy Activities:

See additional attachments for a guide to activities that can promote and encourage normalcy. Engaging in these behaviors is a natural, normal means of healthy development. It is also a way for children and youth to develop skills to mature into high functioning adults:

- ***Independent Living Handbook***
- ***A Guide for Teens in Foster Care***

II. Special Considerations for Exercising The Reasonable and Prudent Parent Standard

One of the characteristics of adolescence is exploring identity and a sense belonging. Youth do this through participating in activities that enrich their talents and interests, but also through seeking to understand and identify in terms of race, ethnicity, and religion. This exploration may also take the form of exploring or questioning sexual and gender identify. Youth are supported through a safe environment to explore these issues; therefore, it may be necessary for foster parents and caregivers to seek outside training, support, or expertise.

Another special consideration in exercising the reasonable and prudent parent standard is identifying and eliminating barriers that particular groups of youth may face to participating in age and developmentally appropriate activities. For example, youth who are pregnant or parenting and youth with disabilities may need additional support to participate in age appropriate activities. Identifying and arranging these supports are part of exercising the standard and are included in the case plan.

1. Cultural Awareness

Racial and Ethnic identity:

A young person's identity is directly linked to his or her cultural and ethnic heritage. One of the ways to support a youth in embracing his or her cultural identity is through recognition and acknowledgement of holidays, traditions, rituals, food preferences and customs that may be part of their cultural heritage. Foster families or caregivers could choose to attend community-sponsored cultural events, ethnic fairs, art and music festivals, tribal pow-wows and other celebrations and events that recognize ethnic identities.

Hair & Skin Care Considerations:

Appearance is important to all of us, including foster children. Foster parents caring for children of a different ethnicity, may experience hair and skin care practices quite different from their own. Consulting with a child's immediate and extended family members for advice regarding any body modifications, hair

and skin care techniques is the best way to gain specific knowledge about caring for a child's hair, skin and body. When this is not possible, consultation with the child/youths worker or someone that has additional knowledge in the field may be warranted.

2. Religion & Spirituality

Choosing and practicing a religion is generally considered among the rights that parents have with respect to their children that is protected by the US Constitution and remains intact even when a child enters foster care. These rights are not limited by this protocol. Nevertheless, the following principles should be kept in mind when a youth asks to participate in a religious activity and when involving youth in a caregiver's religious practices.

a) The child's parents have the right to express preferences in regard to religion, spirituality, or related activities for their child.

b) The age appropriate child can choose the religious or spiritual activities in which he or she wants to participate.

c) The Family Service Worker (FSW) can help negotiate any challenges related to differing religious and spiritual practice between the foster family, the child and his or her biological family.

d) The foster family/caregiver's religion or spirituality may be an important part of their family life. It is acceptable to invite a child to participate, but never to impose a religious practice on the child/youth.

3. Lesbian, Gay, Bisexual, Transgender, Questioning (LGBTQ+) Youth:

Exploring sexual and gender identity is a typical part of growing up. Youth identifying as LGBTQ+ should be provided the same opportunities as any other child/youth. At the same time, they may need additional or special support to manage exploration of their identity in a safe and nurturing environment. This may include: participating in LGBTQ+ support groups, or the activities of LGBTQ+ organizations, or experimentation with different styles of dressing and self-presentation. Flexibility is needed for youth participating in activities that would create safe spaces for LGBTQ+ in foster care. Caregivers should seek assistance and information on resources and opportunities for these youth if not aware of them and seek consultation with the child/youths worker, when needed. In order for youth to find activities that best suit their specific identity, locations of the activity might be further away and therefore require accommodating transportation and or adjusting a curfew.

Refer to DCS Policy ***20.20, Guidelines for Managing Children/Youth in DCS Custody Related to Sexual Orientation, Gender Identity and Expression*** for additional information.

Some additional considerations for LGBTQ+ youth may include:

- Providing and securing clothing that is aligned with the youth's personal gender identity;
- Use of pronouns that the youth has requested ex: he, she and proper name usage;
- Access to health services that specialize in gender identity needs;

- Following the treatment plan set out by the health care provider with special attention to any gender related medical conditions;

- Support and advocacy for LGBTQ+ students/ individuals in social and educational setting as requested by youth;

- Checking in with child/youth to ensure they feel supported and accepted in home.

4. Pregnant and Parenting Youth:

a) Pregnant and parenting youth, mothers and fathers, may face additional barriers to experiencing "normalcy" that should be addressed in the case plan. Mothers and fathers should be supported in their roles as parents as well as in participating in age appropriate activities. Hands on and other parenting instruction should be provided and a youth's right as a parent should be respected and supported in their placement setting. Arrangements for child care must also be made so that parents have the opportunity to pursue their educational and employment goals as well as extra-curricular and enrichment experiences.

b) Fathers should be supported and included in pre-pregnancy activities and upon birth of their child to support the development of a strong bond with their child and an appropriate co-parenting relationship with the child's mother.

c) Minor parents retain all rights to their children as a non-minor parent would regardless of whether they are in the child welfare system. However, if a child is removed from a dependent child based on abuse, neglect or a voluntary placement, reasonable efforts must be made to keep parent and child together.

d) If there is a minor parent in foster care, and if there is no relative/kinship placement available for both the infant child and the minor parent, placement of the infant child with the minor parent will be discussed with the Regional Administrator or Designee prior to a final decision. If there is a need for additional support to the infant, mother and Foster parents, form ***CS-0674, Special/Extraordinary Rate Request*** is completed and considered to support the child's placement with the minor parent. Refer to DCS Policy **16.36, *Title IV-E Foster Care Funds*** *and* **16.29, Foster Home Board Rates**.

5. Youth with Disabilities

a) Youth with disabilities and special needs should have access to the same opportunities for participation in age and developmentally appropriate activities as their peers without special needs. Under federal and state law, individuals with disabilities cannot be excluded from services and benefits provided by the child welfare agency based on their disability. The obligation to provide normalcy and access to age and developmentally appropriate experiences applies to all youth in the care of the child welfare agency. The child welfare agency and its representatives must make reasonable accommodations for the youth if there are barriers to participation based on the youth's disability. Schools and the majority of providers of organized activities and public accommodations

are obligated to refrain from discrimination based on disability and provide reasonable accommodations.

b) Foster parents and caregivers work with the youth's treatment providers and CFTM to identify what services or supports may be needed to overcome barriers to participation. In some cases, overcoming barriers may involve providing advocacy for the youth so that a service provider, school, or organization provides accommodations to a youth. In other cases, the child welfare agency may be making or providing the accommodation. For example, the child welfare agency can provide a sign language interpreter so that a youth who is hearing impaired can participate in an Independent Living Program event or group.

c) Accommodations and supports that make age-appropriate experiences a reality for youth with disabilities can come in an array of forms. Sign language interpreters, physical modifications, and specialized instruction are among the most familiar types of accommodations. However, the CFTM should be as creative as possible in devising accommodations for youth that can help provide exposer to community and other activities. A youth's behavior related to a trauma history or other diagnoses should not preclude activities and access to the community. Rather, strategies should be devised to enable participation to the greatest extent possible. Accommodations may include increased supervision, de-escalation and safety plans, and coordination with other service providers.

d) The caregiver and CFTM are encouraged to seek assistance regarding accommodations and opportunities for youth with disabilities from community resources and experts, such as **Disability Rights Tennessee** at **1-800-342-1660** and the **Vanderbilt Kennedy Center** at **615-322-8240.**

Foster Parent Responsibility and Liability

1. Supervision of Children and Youth Doing Age Appropriate Activities

a) These guidelines aid the foster parent and caregiver in making informed decisions regarding a child/youth participating in activities and social events under the supervision of an adult who the foster parents considers safe. Foster parent judgments consistent with these guidelines are considered appropriate.

b) The foster parent should use their best judgment (defined as "would you leave your biological child with this person") when determining if an individual is an appropriate supervisor for the child/youth. Factors that should be considered include, but are not limited to: the foster parent's relationship with the individual, length of time the child/youth will be with individuals other than the foster parent, group activities that should be allowed and if the care of the child with this person is routine then a background check is required. If this is an emergency situation and the foster parent would leave their own child with this person, then background checks are not necessary.

2. Liability and Protections for Liability

Generally, a DCS foster parent or caregiver is not liable for harm caused to a child who participates in an activity provided that the foster parent or caregiver has acted in accordance with DCS policy, which

includes this protocol. This protocol does not remove, limit, or add any existing liability protection provided by law. These include:

a) A DCS foster parent is considered a state employee for purposes of the Claims Commission. This means that if a negligent act is committed and the foster parent is operating under DCS policy and guidelines; *ordinarily*, the foster parent will not be personally liable and the claim against the foster parent will be converted to a claim against the State.

b) Contract provider agencies are mandated under federal law (HR4980) to provide access to the same activities and experiences as described in this protocol for all children and youth in their care. Refer to the standard *Terms and Conditions* language within the agreed upon contract.

c) As the law is written, a caregiver or child placing agency, which is acting in good faith and in compliance with the standard, would not ordinarily be civilly liable for an injury that occurred in accordance with the reasonable and prudent parent standard. However, the caregiver or child placing agency would not ordinarily qualify for this civil immunity if the injuries to the child were caused by gross negligence, willful or wanton conduct, or intentional wrongdoing.