

October 30, 2019

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

**ALL COUNTY LETTER NO. 19-97
PROVIDER INFORMATION NOTICE (PIN) 19-10-CRP**

The purpose of this All County Letter and Provider Information Notice is to provide answers to Frequently Asked Questions regarding the portability process, the process in which a Resource Family may be approved by a subsequent agency.



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GAVIN NEWSOM
GOVERNOR

10/30/2019

ALL COUNTY LETTER (ACL) NO. 19-97
PROVIDER INFORMATION NOTICE (PIN) 19-10-CRP

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY FISCAL OFFICERS
ALL CHIEF PROBATION OFFICERS
COUNTY WELFARE DIRECTORS ASSOCIATION OF CALIFORNIA
ALL CDSS ADOPTION REGIONAL AND FIELD OFFICES
ALL TITLE IV-E AGREEMENT TRIBES
ALL CHILDREN'S RESIDENTIAL PROGRAM STAFF
ALL LICENSED FOSTER FAMILY AGENCIES

SUBJECT: RESOURCE FAMILY APPROVAL PROGRAM – PORTABILITY

REFERENCE: [ASSEMBLY BILL \(AB\) 404 \(CHAPTER 732; STATUTES OF 2017\);](#)
[HEALTH AND SAFETY CODE 1517.5 AND 1517.2; WELFARE AND](#)
[INSTITUTIONS CODE \(W&IC\) SECTION 16519.5 AND 16519.58;](#)
[BACKGROUND ASSESSMENT GUIDE \(BAG\)](#)

The purpose of this joint All County Letter (ACL) and Provider Information Notice is to provide County Child Welfare Agencies, Probation Departments, licensed Foster Family Agencies (FFAs), and other stakeholders with answers to Frequently Asked Questions (FAQs) regarding portability, the process by which a currently approved Resource Family (RF) may seek a streamlined approval with a subsequent agency.

For the purpose of this ACL/PIN, the following definitions shall be noted:

- County means the County Child Welfare Department or County Probation Department.
- Department means the California Department of Social Services (CDSS).
- Current agency means a County or FFA by which a RF is currently approved.
- Subsequent agency means a County or FFA to which a RF has submitted a request to initiate the portability process.
- [RFA 10](#): Resource Family Approval- Portability Application means the form that documents the RF's request to initiate the portability process and requests information from the RF's current agency. The RFA 10 is a mandated form, so counties and FFAs may not use an equivalent form.

BACKGROUND

The passage of AB 404 enacted portability as of January 1, 2018, and added section [16519.58 to the W&IC](#) and section [1517.5 to the Health and Safety Code](#). Portability allows an approved RF the option of moving their Resource Family Approval (RFA) to an agency that will best serve the needs of the RF and children in care. For example, if the current agency serving the RF does not operate an Intensive Services Foster Care (ISFC) program, a RF may seek a subsequent approval with an agency that offers ISFC to meet the needs of a child placed in the RF's home. The portability process is completed at the request of the RF and cannot be initiated by a County or Foster Family Agency (FFA), or used as a method of recruitment.

The portability process should encourage openness, transparency, and communication between the current agency, subsequent agency, placement agency, and the RF to best serve the RF and children in care. The RF has met the qualifications of RFA with their current agency; however, there are certain requirements, outlined in the Written Directives ([WD](#)) and the FFA Interim Licensing Standards ([FFA ILS](#)), that the RF and both the current and subsequent agencies must complete as part of the portability process before the subsequent approval can be finalized. Further, while the RF completes the portability process with the subsequent agency, the RF must maintain their approval with their current agency, and the current agency shall maintain all case management responsibilities for the RF, until the subsequent agency has approved the RF. Please note that County and FFA processes and requirements may differ.

Both the WD and FFA ILS have added new requirements specific to portability. Article 5.1 and section 9-04 of the WD, and Article 2.1 and 5.1 of the FFA ILS specify the portability application requirements. In addition to these WD and FFA ILS sections, we have included frequently asked questions (FAQs) that address clarifying questions received by the Department from counties, FFAs, and stakeholders.

FAQS

1. How long does an agency have to complete the portability process?

The subsequent agency does not have a time frame to complete the RF's request for subsequent approval, but all components outlined in the WD for a County, or ILS for FFAs, must be completed before the subsequent agency can issue the [RFA 05A/LIC 05A](#): Resource Family Approval Certificate or an equivalent approval certificate. The current agency is required to provide the subsequent agency with a copy of the RF's entire file or case record, excluding any Criminal Offender Record Information documents, received directly from the California Department of Justice (DOJ), that

includes subsequent arrest notifications, within 20 business days of receipt of the RFA 10. Please refer to Section 10-05 of Version 6 of the WD and Section 88369.7 of Version 4 of the FFA ILS regarding the contents of the RF file or case record. The current agency also maintains its case management responsibilities until the subsequent agency completes the portability process and issues the RFA 05A/LIC 05A or an equivalent approval certificate.

In order to preserve the attorney-client privilege and confidentiality of discussions between county RFA staff and their CDSS attorney, all legal consult memos, emails, records of phone calls with the attorney, and other communications with the attorney must be removed from the file before it is transferred to a subsequent agency. If a county chooses to forward or share these types of communications, the county is waiving the confidentiality and privilege protections. The communications would not only be disclosed to subsequent FFAs, but may have to be disclosed in discovery during a lawsuit against the county.

2. Does an agency have to accept the RF's completed portability application (RFA 10)?

Yes. When a subsequent agency receives the completed form RFA 10 indicating the RF's request for subsequent approval, the subsequent agency must proceed with the required steps outlined in the WD or FFA ILS. If, at any time during the process, a subsequent agency determines that the RF does not meet the qualifications to be an approved RF with their agency, the subsequent agency may choose to deny the RF's portability application.

If a County denies a RF's portability application, the RF has the right to appeal the County's decision. A County shall follow Due Process procedures as outlined in Article 12 of the WD. A County shall notify the FFA of the disposition of the hearing.

3. A subsequent agency has denied a RF's portability application. Does the subsequent agency have to inform the current agency of the denial?

Yes. If a subsequent agency denies a RF's portability application, the subsequent agency shall inform the current agency of the denial and shall provide the current agency with a copy of the update to the Written Report.

If a County denies a portability application, in addition to providing a copy of the update to the Written Report to the current agency, the County shall also comply with due process procedures for the RF. Once the County's notice of action has been served on

the RF, the County must also provide a copy of the notice of action to the current agency.

4. A subsequent agency has denied a RF's portability application. Does the current agency have to rescind the RF's approval?

No. If a RF's portability application is denied by a subsequent agency, there is no requirement that the current agency rescind the approval. However, if the denial by the subsequent agency indicates there is a health and safety concern or that the RF may not be meeting RFA standards, it is the current agency's responsibility to take appropriate action. This may include reporting the information to the Department and placing agency, ensuring an investigation occurs, and/or rescinding the approval as specified in the WD or FFA ILS.

5. Does a County have to wait to receive the transfer of criminal background check clearances and/or exemptions before conducting the required update?

No. A County can complete the required approval update to the Written Report while the County is waiting for the criminal record clearances and exemptions issued to the RF, and all adults residing or regularly present in the home, to be transferred from the Department to the County. However, the County may not approve the portability application and issue the RFA 05A, or equivalent approval certificate, until all components are complete, including the transfer of criminal background check clearances and/or exemptions and subsequent arrest notifications. Counties may reference Section 122 of the RFA [BAG](#) available on the [RFA Website](#).

To assist a County with completing the required update, a County may access the [County Transparency website](#) to view documents related to criminal exemptions granted by the Caregiver Background Check Bureau (CBCB), however, Counties are still instructed to follow Section 122 of the BAG and ensure that the original criminal exemption documents are requested from the CBCB for purposes of case file retention.

For a County who needs to establish a Site Administrator for the County Transparency website, the County will need to submit and email request to cclwebmaster@dss.ca.gov and CDSS' Information Systems Division (ISD) will work towards establishing an account for each Site Administrator.

6. Can the subsequent FFA request the transfer of the subsequent arrest notification for all adults residing or regularly present in the home from the current agency instead of having the adults resubmit their fingerprints?

No. A subsequent FFA is required to complete a new background check for the RF, which includes having the RF and all adults residing or regularly present in the home submit their fingerprints to the subsequent agency. The subsequent FFA must use the Request for LiveScan Service form [BCIA 8016](#) with the FFA's Originating Agency (ORI) Code, and "**RESRCE FAM PER 16519.5WI**" as the authorized applicant type. The CBCB is responsible for the criminal background clearances and exemptions for RF applicants evaluated by FFAs. For more information regarding the criminal record clearance and exemption process for RFs, and all adults residing or regularly present in the home, please refer to [PIN 17-13-Children's Residential Program \(CRP\)](#).

If a RF moves from a FFA to a County, the County shall request the transfer of subsequent arrest notifications from the CBCB to the County after the County has made the decision to approve the RF's portability application.

7. A RFA applicant began the RFA process with an FFA, and now wishes to complete the RFA process with our County. Is this considered portability?

No. The portability process is only allowed for an approved RF. If an applicant wishes to change agencies in the middle of the RFA process, the applicant will need to withdraw the application and then the applicant will need to complete the whole RFA process with the other agency.

8. Will the child's current placement in a RF's home be affected if the RF starts the portability process with a subsequent agency?

No. A RF's request for subsequent approval is not cause for a child to change placement. If a child is currently in the RF's care, open communication and collaboration should occur between all agencies involved (current agency, subsequent agency, and placing agency) to ensure the RF's information is updated in Child Welfare Services/ Case Management System (CWS/CMS) upon approval by the subsequent agency. The County shall follow the CWS/CMS Data Entry Instructions for RFA available on the RFA website. Updated instructions will be released and available on the RFA website soon.

9. Will foster care reimbursement payments be interrupted when a RF goes through the portability process?

No. If a child is currently in the RF's care, open communication and collaboration should occur between all agencies involved (current agency, subsequent agency, and placing agency) to ensure funding, including any specialized care increment payments or Level of Care (LOC) determinations, will continue. Any specialized care increments, or LOC

determinations, should be made as soon as the portability process is completed, and the subsequent agency has issued the RF the RFA 05A/LIC 05A, or equivalent certificate.

10. Is there a limit to the number of times a RF can move agencies?

No. There is no limit to the number of times that a RF can move agencies. A RF can request to complete the portability process with any subsequent agency that they feel will best meet their needs. As part of the update, the subsequent agency can discuss with the RF the RF's motivation to move to a new agency and how the subsequent agency can best support the RF.

11. If a RF has a pending investigation or pending administrative action, can the subsequent agency complete the portability process for the RF?

Yes. However, if the subsequent agency learns that there is a pending investigation or pending administrative action, best practice is to wait until after the investigation or administrative action is completed before moving forward to complete the portability process. This will ensure that caregivers who may pose a health and safety risk to children, or who are not meeting RFA standards, are not approved by the subsequent agency until the investigation has been completed or the administrative action has been resolved. If a rescission is imposed by the current agency or Department while the portability application is pending, then the portability process is no longer applicable with the subsequent agency, as the RF's approval is no longer valid. Ongoing communication between the current agency and subsequent agency is encouraged throughout the process to ensure any new investigations or pending administrative actions that occur after a RF has requested to complete the portability process are reported to the subsequent agency. Likewise, a subsequent agency may contact the current agency throughout the portability process to learn any new information regarding the RF to complete the portability process.

12. What does the former agency do after a RF's portability application has been approved?

When a RF is approved by a new FFA, the former agency (County or FFA) must ensure that the No Longer Interested (NLI) Notification form ([BCIA 8302](#)) is submitted for the Resource Parent(s), and all adults residing and regularly present in the home, to the California DOJ when the former agency receives a copy of the RFA 05A/LIC 05A, or equivalent approval certificate, verifying the RF's subsequent approval with the new agency.

When a RF is subsequently approved by a County, the County should inform the former FFA that the RF's subsequent arrest notification service has been successfully transferred to a County, at which point the former FFA must ensure that the NLI form (BCIA 8302) is submitted for the Resource Parent(s), and all adults residing and regularly present in the home, to the California DOJ. This will stop dissemination of any subsequent arrest information to the former agency. The former agency must continue to retain the RF's file in accordance with the agency's policies as mandated in the WD or the FFA ILS.

13. A RF recently completed an update with their current agency before requesting to complete the portability process with a subsequent agency. Does the subsequent agency still have to complete an update?

Yes. The subsequent agency is still required to complete the update to the existing Written Report as part of the portability process. The subsequent agency may determine if any additional activities will need to be completed as part of the RF's update and work with the RF to ensure those activities are completed.

14. A RF has already completed 8 hours of annual training with their current agency, however, the subsequent agency requires more hours. Can the subsequent agency require the RF to complete additional hours of training?

Yes. The minimum annual training required is eight hours; however, FFAs and Counties may require additional training hours above the minimum eight hours. If the subsequent agency's annual training requirement is more than eight hours, the RF's training may be considered incomplete even though the RF has already completed the eight hours of training required by their current agency. The subsequent agency may require the RF to complete additional training as part of the update for portability or may require the RF to complete any additional training hours after the RF has been approved by the subsequent agency.

15. When is the annual training due for a RF that has been approved by a subsequent agency?

The annual training is due for the RF every 12 months on the approval anniversary date. The RF's annual training date will be due every 12 months from the date the RF is approved by the subsequent agency.

16. If a subsequent agency has denied a portability application, can the RF submit a portability application with a different subsequent agency?

A RF who was denied a portability application by an FFA or County has the right to submit a portability application with any subsequent agency, however, a subsequent FFA is required to cease review of the application for a period of one year as provided in Health and Safety Code section 1517(a)(7) and a subsequent County may cease review for a period of one year in accordance with W&IC section 16519.5(c)(7).

17. Can the current agency charge the subsequent agency or the RF a fee before releasing the RF's file or case record?

No. Portability requires information to be shared between the current agency and subsequent agency so that a RF has the option to work with an agency that best meets their needs and the needs of the children placed in their care. As specified in statute, WD and FFA ILS, a current agency is required to provide the subsequent agency with the Written Report and any updates to the Written Report and copies of all records contained in the RF file or case record within 20 business days of receipt of request (RFA 10). A current agency shall not withhold this required information for payment. This rule applies even when an FFA has a prior agreement with the RF.

18. Our agency has sent the RFA 10 to the current agency and they have not returned the RFA 10 or provided our agency with a copy of the RF's file or case record. What should our agency do?

If the current agency is an FFA, the subsequent agency may contact the Community Care Licensing Division, who will work collaboratively with the FFA to resolve the issue.

If the current agency is a County, the subsequent agency may contact the Children and Family Services Division RFA Program, which can work collaboratively with the County to resolve the issue.

If you have any questions, please email the RFA Policy Unit at RFA@dss.ca.gov or call (916) 651-1101.

Sincerely,

Original signed by

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