

# Rights of Foster Parents

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Hawaii's Child Protective Act (Hawaii Revised Statutes Chapter 587) lists four rights for foster parents. First, foster parents and the child's doctor have a right to the medical records that the Department of Human Services (DHS) has for a foster child within thirty days of placement. In other words, whatever medical records DHS has in its hands they need to give to the child's doctor and foster parent. This law does not require DHS to go out and find the child's complete medical records and provide them within thirty days. DHS only has to give you what they have.

In addition to the child's medical records, DHS is obligated to provide foster parents with the child's "relevant social history." This is a somewhat ambiguous term and different social workers might interpret it differently. The statute does not provide any guidance about what the Legislature considered "relevant." However, it should be assumed that history of drug exposure, history of childhood behavioral problems or history of sexual abuse should all be considered "relevant social history." As with the medical records, foster parents are entitled to disclosure of the relevant social history that DHS has on file. DHS will, most likely, not have a full social history for a child and therefore the social history provided to the foster parent will be incomplete.

Second, foster parents have the right to get ordinary medical treatment, immunizations and well-baby checkups for a foster child. That means that foster parents are not required to have the DHS social worker sign a consent form for any routine medical appointments and treatment. However, if your foster child needs extra-ordinary medical treatment, like surgery, make sure that the DHS social worker has signed the necessary consents for the doctor and the hospital prior to the surgery. If you have questions about whether the care is "ordinary" or "extra-ordinary," ask the treating physician. If the treating physician is in doubt, contact the DHS social worker and get the necessary consent just in case.

Third, foster parents have the right to give consent for their foster child to participate in routine educational and recreational activities. The easiest example of this right is the ability to sign field trip consents. There is one big category of consents that are not considered "routine educational activities" and that is special education paperwork for children participating in those services. For example, foster parents do not have the right to sign individualized educational plans (IEPs) for students eligible for special education. (If foster parents become guardians or adoptive parents, the law is different. I am only talking about foster parents). If a foster child is eligible for special education and the school conducts regular individual education plan meetings, remind the school that a foster child needs a "surrogate parent" to participate in all of those meetings. Surrogate parents are advocates specially appointed to protect the educational rights of foster children in special education.

Finally, foster parents have a right to participate in Family Court hearings on the case involving the foster children in their care. For those of you who are not familiar with the court process, review hearings are court hearings set by the Family Court at least every six months while the child is in foster custody, more often if needed. These review

hearings allow the Court to check on the progress of the parents and the child. DHS is required by state law to provide written notification of the review hearings to foster parents and foster parents are entitled to attend, listen to the proceedings and speak to the Court if they wish. Foster parents are not required to attend (the Court will not be angry if the foster parent is not there) but they are welcomed and encouraged to attend. (*Ed. note 2006: Legislation passed in the 2006 legislative session authorizes a child's current foster parents to attend and participate as parties in all Child Protective Act proceedings subsequent to a disposition hearing.*)

Before these hearings, DHS and the child's Guardian *Ad Litem* (GAL) are required to submit reports to the court with information regarding the current situation of the parents and the child. In addition, foster parents can submit their own court report for the Court to review prior to the court hearing. It is particularly important to submit a written report if you have important concerns that you would like to bring to the Court's attention. Review hearings tend to be short, approximately ten minutes, which is not enough time to explain concerns or challenges in detail. For example, a foster parent in a case where I was GAL wrote a letter to the Court describing the unusual and concerning behaviors of the foster child. During the review hearing, the judge was able to refer to the letter and address the specific concerns.

If you are submitting a court report, make sure that copies of the report are provided to DHS's attorney from the Department of the Attorney General and the parents' attorneys. You cannot send a report and mark it "confidential-for the judge only." In order for the judge to read it, all parties must also be provided with copies.

At the hearing, the Court can make orders to assure that the case is moving forward in a way that protects the rights of the parents and the safety of the child.

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