

Objectives

- Understand the Law
- Recognize and Remove Barriers
- Deal with Frequent Issues
- Special Considerations

Normalcy – Letting Kids be Kids



January 2014

ADVOCATE REMOVING BARRIERS TO NORMALCY

The GAL shall advocate to remove barriers that prevent children from participating in age-appropriate extracurricular, enrichment and social activities (normalcy) as required by § 39.4091, Florida Statutes



WHAT IS THE LAW?

§ 39.4091 Florida Statutes



Caregivers must use a **reasonable prudent parent** standard to determine if child can participate in **age-appropriate** activity

WHAT IS THE LAW?

§ 39.4091 Florida Statutes

Reasonable Prudent Parent Standard

The standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth, that a caregiver shall use when determining whether to allow a child in out-of-home care to participate in extracurricular, enrichment, and social activities.

Care giver must consider the child's:

- Age, maturity and developmental level
- Risks of activity
- Best interest of child
- Importance of child's emotional & developmental growth
- Importance most family-like living experience
- Behavioral history of the child & child's ability to safely participate in activity

WHAT IS THE LAW?

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Caregiver is not liable for harm caused to child, provided decision was **reasonable** and **prudent**

Identify the Caregiver

- There must be an **identified caregiver** (*a person*) making normalcy decisions (even if child placed in group home or shelter)
- Group homes & shelters are not exempt from § 39.4091

The department (caseworker) cannot require prior approval for a child to participate in an activity

If a caregiver is not being permitted to make decisions for a child, inform the department or the court



Pre-existing Court Orders

A caregiver's decisions regarding normalcy activities cannot be contrary to a pre-existing court order.

- For example, if there is court ordered visitation with the child's parents on Saturdays, a normalcy activity planned or approved by the caregiver would not trump or take precedence over an existing court order for Saturday visitation.
 - Request Staffing / File Motion

Policies and Practices of Agencies & Placements Must be Consistent with § 39.4091

- Notify the department / File motion



Notify the department and / or the Court if the caregiver is making decisions that are inconsistent with the *Reasonable Prudent Parent* standard

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Confidentiality requirements for department records shall not restrict the child's participation in customary activities appropriate for the child's age and developmental level

Disabled youth shall be provided with an equal opportunity to participate in activities



Social Media

Child should be permitted to participate in social media as long as permission has been given by caregiver



Driving

- Caregiver and Services Worker shall assist the child in finding a driver's education program
- Support of the child's efforts to learn to drive a car, obtain learner's permit & driver's license (age, maturity, insurance)
- Efforts shall be made to obtain automobile insurance



Overnight – Planned Outings

- The out-of-home caregiver must determine that it is safe & appropriate
- Background screening is not necessary for a child to participate in normal school or community activities and outings such as school field trips, dating, scout campouts, and activities with friends, families, school and church group

Babysitting

- Can be 14+ (14-15 must have babysitting course)
- Caregiver must ensure:
 - Babysitter suitable for the age, developmental level and behaviors of child
 - Babysitter understands how to handle emergencies, has telephone numbers - case manager and physician; and
 - Discipline and confidentiality policies for the child have been explained
- Babysitting does not have to be in a licensed setting

Vacations

- Caregiver may take child on vacations
- The caregiver must inform the department



Allowance



- Ages 6+ must receive allowance at least once a month
- Cannot be withheld as a form of discipline
- Additional amounts can be given as reward
- Providing toiletries, toys or other tangible items in lieu of money is not permitted.
- Allowance money should also not include money needed to purchase toiletries.

Child shall be given permission /encouragement to:

- obtain employment
- have contact with family members
- have access to phone usage
- have reasonable curfews
- travel with other youth or adults
- have his or her picture taken for publication in a newspaper or yearbook
- receive public recognition for accomplishments
- participate in school or after-school organizations or clubs
- participate in community events

Child must be provided information regarding:

- drug and alcohol use and abuse
- teen sexuality issues
- runaway prevention
- health services
- community involvement
- knowledge of available resources
- identifying legal issues
- understanding his or her legal rights
- accessing specific legal advice



Always be aware of **WHO** is making the decisions
for children

Florida Guardian ad Litem Normalcy Checklist

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- Age, maturity and developmental level
- Risks of activity
- Best interest of child
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Reasonable Prudent Parent Standard: The standard characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time encouraging the child's emotional and developmental growth, that a caregiver shall use when determining whether to allow a child in out-of-home care to participate in extracurricular, enrichment, and social activities

REMOVE BARRIERS BY ENSURING:

- CBCs / department not requiring prior approval for age-appropriate activity
- There is an identified caregiver (a person) making normalcy decisions (even if child placed in group home or shelter)
 - Group homes & shelters are not exempt from § 39.4091
- Pre-existing court orders do not conflict with statute / normalcy decisions
 - Request Staffing / File Motion

- Policies and practices of agencies & placements consistent with § 39.4091
- Caregiver making decisions consistent with reasonable prudent parent standard

FREQUENT ISSUES

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- Child permitted to participate in social media as long as permission has been given by caregiver

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SPECIAL CONSIDERATIONS

- Disabled youth shall be provided with an equal opportunity to participate in activities.
- Confidentiality requirements for department records shall not restrict the child's participation in customary activities appropriate for the child's age and developmental level

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GAL

Guardian ad Litem

**A POWERFUL VOICE FOR
FLORIDA'S CHILDREN**

**FLORIDA GUARDIAN AD LITEM
PROGRAM**

January 2014

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