



State of Florida  
Department of Children and Families

Ron DeSantis  
Governor

Shevaun L. Harris  
Secretary

See revised memo  
dated 2/18/2022

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**DATE:** February 7, 2022

**TO:** Regional Managing Directors  
Community-Based Care Lead Agency CEOs  
Sheriff's Offices Conducting Child Protective Investigations

**THROUGH:** Taylor Hatch, Deputy Secretary

**FROM:** Jess Tharpe, Assistant Secretary for Child Welfare  
Sharron Washington, Assistant Secretary for Operations

**SUBJECT:** Foster Home Capacity Practice Guidelines

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**PURPOSE:** The purpose of this memorandum is to provide guidelines on foster home placement capacity practices for placement of children.

**BACKGROUND:** During the 2021 legislative sessions, updates were made to s. 409.175, Florida Statutes, pertaining to foster home placement capacity. These changes were effective on July 1, 2021. In addition, on October 1, 2021, the Family First Prevention Services Act (FFPSA) went into effect and outlines specific exemption statuses to a state's placement capacity.

Section 409.175(3)(b), F.S., requires placement capacity waivers when the number of children in a licensed foster home (Levels I-V) meet the following:

- The total number of dependent children in a family foster home is more than five (six or more) – must be approved by RMD, RMD designee, or CBC executive; or
- The total number of children in a family foster home, including both dependent children and the family's own children, is more than seven (eight or more) – must be approved by the Deputy Assistant Secretary for Child Welfare.

The Social Security Act §472 [42 U.S.C. 672] (c)(1)(B) identifies the following as allowable justifications for exceeding placement capacity limits:

- To allow a parenting youth in foster care to remain with the child of the parenting youth;
- To allow siblings to remain together;
- To allow a child with an established meaningful relationship with the family to remain with the family; or
- To allow a family with special training or skills to provide care to a child who has a severe disability.

If an over capacity placement is made in the absence of one of the above justifications, the placement is considered an illegal placement.

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Mission: Work in Partnership with Local Communities to Protect the Vulnerable, Promote Strong and Economically Self-Sufficient Families, and Advance Personal and Family Recovery and Resiliency

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The Office of Child Welfare will continue to release FSFN changes, host trainings, and promulgate the rule changes needed to come into compliance.

**ACTION REQUIRED:** Please review this memo, its attachments, and distribute to necessary recipients in your respective programs.

**CONTACT INFORMATION:** If you have questions or need clarification regarding this memorandum or the Foster Home Capacity Practice Guidelines, please contact Courtney Smith, Adoption and Permanency Manager, at [Courtney.Smith@myflfamilies.com](mailto:Courtney.Smith@myflfamilies.com) or 850-717-4660.

cc: Regional Family and Community Services Directors  
Grainne O'Sullivan, Statewide Director, Children's Legal Services  
Center for Child Welfare

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# Foster Home Capacity Practice Guidelines

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## Introduction

In an effort to prepare families for fostering and to align with federal and state foster home capacity requirements, Florida's foster home capacity has been divided into two distinctive categories. These categories provide an accurate reflection of a foster home's initial licensing capacity and placement capacity. The two categories of foster home capacity are defined as:

1. **Licensure Capacity-** Licensure capacity is the number of children a foster home is licensed to serve in out-of-home care. The licensure capacity is determined at the time of license application.
2. **Placement Capacity-** Placement capacity is the total number of children that can be placed in the foster home once the home is licensed.

The following guidelines outlines the requirements when reviewing, assessing, and approving licensure and placement capacity. Guidelines for all other foster home licensing waivers can be found in 65C-45.015, Florida Administrative Code (F.A.C.)

### Part I: Family Foster Home Licensure Capacity

As outlined in chapter 65C-45.004, F.A.C., the recommendations for initial and relicensure shall describe the characteristics of children most appropriate for placement in the home. These characteristics shall include level of licensure, number of children, age, gender, types of behaviors, and special needs. Explore and address any limitations or concerns and under what conditions the prospective family would not be willing or able to accept a child.

Licensure capacity shall be reassessed during the annual reassessment for licensure. If it is determined by the licensing home study at the time of relicensure that the total number of children in the home is appropriate and that there have been no substantive licensure violations and no indications of child maltreatment or child-on-child sexual abuse within the past 12 months, the relicensure of the home may not be denied based on the total number of children in the home as outlines in s. 409.175(3)(d), F.S.

### Part II: Family Foster Home Placement Capacity

As outlined in s. 409.175(3)(a), Florida Statutes (F.S.), the total number of children placed in a foster family home shall be based on the needs of each child, the ability of the foster family to meet the individual needs of each child in the home, the amount of space in the home, background, experience, and skill of the family foster parents.

In the event the placing of a child or children in foster home that will result in exceeding the licensed capacity, pursuant to s. 409.175(3)(b), F.S., a waiver must be requested and approved when placement of a licensed family foster home exceeds the following:

1. More than five (five) dependent (children placed in out-of-home care) children placed are in a family foster home; or
2. When the total number of children placed in the family foster home, including the foster parent's own children, is more than seven (7).

## Part III: Family Foster Home Placement Capacity Assessments

While efforts must be made to comply with the capacities set forth in s. 409.175, F.S., and outlined in Part II above, there are circumstances where allowing a home being over capacity may be in the best interest of the child(ren). When assessing for the appropriateness for seeking an over-capacity waiver, at a minimum the following factors should be considered and documented:

1. The foster parent's ability to accommodate additional children being placed in the home (will all children have appropriate sleeping space as defined in 65C-45, F.A.C.);
2. Any physical, development, emotional, and mental needs of the children residing in the home and those that may be placed in the home;
3. Any child placement agreements for children in the home, including behavior modification plans that have been implemented;
4. The complexities of the cases of the children in the home and the caregiver's ability to ensure appropriate access to services for the children; and
5. Previous caregiving experiences.

## Part IV: Approval of Family Foster Home Placement Capacity Waiver

An over-capacity waiver is not considered valid until it has been approved verbally and in writing in compliance with 65C-45.015, F.A.C.

There are only four (4) justifications when an over-capacity waiver can be approved:

1. To allow a parenting youth in foster care to remain with the child of the parenting youth.
2. To allow siblings to remain together.
3. To allow a child with an established meaningful relationship with the family to remain with the family.
4. To allow a family with special training or skills to provide care to a child who has severe disability.

**PLEASE NOTE: If an over capacity placement is made in the absence of one of the above justifications, the placement is considered an illegal placement.**

Approvals for placement capacity waivers must be approved by the following:

Waiver Request	Required Approval
Approval for more than 7 children in the home	Regional Managing Director OR their department designee
Approval for more than 5 dependent children	Regional Managing Director OR their department designee OR CBC executive leadership

## Part V: FSFN Documentation for Licensure and Placement Capacity Waivers

### Licensure Capacity

At initial licensure and subsequent relicensure, the provider's licensing capacity must be documented in the capacity restrictions field in FSFN that is included in the license restriction group box. The provider's total number of their biological children placed in the home must be included in the license note section.

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Document the total number caregiver will be licensed to care for in the capacity restriction box.

\*Document the providers total number of the caregiver's own children placed in the home in the **license note** section.

\*Additional changes are being made to FSFN to document the number of children in the caregiver's home prior to licensure.

The screenshot shows a web form with several sections. The 'License Restrictions' section includes checkboxes for 'Respite Only', 'Female Only', and 'Male Only', and a 'Capacity Restriction' input field. The 'Population Served' section has dropdown menus for 'Population Type', 'Dependency', and 'Community'. The 'Public Institution' section has two checkboxes. The 'License Note' section is a large text area with a scroll bar, highlighted with a thick black border.

### Placement Capacity

The signed approved over-capacity waivers and assessments shall be uploaded into the provider's file cabinet using the image category "Provider Household Documents" and "waivers" image type. Documentation should be uploaded into the provider's file cabinet with 48 business hours from approval.

The 'Image Details' form contains the following fields: 'Date Document Scanned' with a date input field showing '00/00/0000'; 'Image Category' with a dropdown menu showing 'Provider Household Documents'; 'Image Type' with a dropdown menu showing 'Waivers'; 'File Name' with a text input field and a 'Browse...' button; and 'Comments' with a large text area and a scroll bar.