

SUPREME COURT COPY

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SUPREME COURT  
FILED

MAY 19 2011

Frederick K. Ohlrich Clerk  
Deputy

**In the Supreme Court of the State of California**

**In re W.B., JR., a Person Coming Under the  
Juvenile Court Law.**

**PEOPLE OF THE STATE OF CALIFORNIA,**

Plaintiff and Respondent.,

v.

**W.B., JR., a minor,**

Defendant and Appellant.

Case No. S181638

Fourth Appellate District  
Division Two  
Case No. E047368

Riverside County  
Superior Court  
Case No. RIJ114127

**RESPONDENT'S MOTION FOR JUDICIAL NOTICE**

TO THE HONORABLE CHIEF JUSTICE TANI CANTIL-  
SAKAUYE AND THE ASSOCIATE JUSTICES OF THE SUPREME  
COURT OF CALIFORNIA:

Respondent respectfully moves this Court, pursuant to Evidence Code sections 452 and 459 and California Rules of Court, rules 8.252 and 8.520, to take judicial notice of a description of federal foster care Title IV-E funding, provided by the United States Department of Health and Human Services.

This document is appended to this motion as “Exhibit A.” The attached exhibit is the proper subject of judicial notice under Evidence Code section 452, subdivisions (b) and (c), which permit this Court to take judicial notice of “ Regulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States,” and, “Official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.”

Pursuant to this authority, it is appropriate to take judicial notice of Congressional reports and executive department guidelines such as Exhibit A. (*People v. Cruz* (1996) 13 Cal.4th 764, 780 [judicial notice of legislative staff analysis]; *Johnson v. American Standard, Inc.* (2008) 43 Cal.4th 56, 63 [Court may take judicial notice of federal regulations and guidelines].)

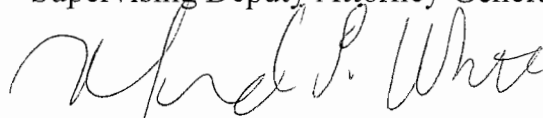
**CONCLUSION**

For the reasons stated above, respondent respectfully requests that this Court take judicial notice of the document attached as Exhibit A.

Dated: May 18, 2011

Respectfully submitted,

KAMALA D. HARRIS  
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**CERTIFICATE OF COMPLIANCE**

I certify that the attached RESPONDENT'S MOTION FOR JUDICIAL NOTICE uses a 13 point Times New Roman font and contains 230 words.

Dated: May 18, 2011

KAMALA D. HARRIS  
Attorney General of California

A handwritten signature in cursive script, appearing to read "Meredith S. White".

MEREDITH S. WHITE  
Deputy Attorney General  
*Attorneys for Plaintiff and Respondent*

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# **EXHIBIT A**

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U.S. Department of Health and Human Services

Administration for Children &amp; Families

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## Title IV-E Foster Care

### Program Description

The Federal Foster Care Program helps to provide safe and stable out-of-home care for children until the children are safely returned home, placed permanently with adoptive families or placed in other planned arrangements for permanency. The program is authorized by title IV-E of the Social Security Act, as amended, and implemented under the Code of Federal Regulations (CFR) at 45 CFR parts 1355, 1356, and 1357. It is an annually appropriated program with specific eligibility requirements and fixed allowable uses of funds. Funding is awarded by formula as an open-ended entitlement grant and is contingent upon an approved title IV-E plan to administer or supervise the administration of the program. The title IV-E Agency must submit yearly estimates of program expenditures as well as quarterly reports of estimated and actual program expenditures in support of the awarded funds. Funds are available for monthly maintenance payments for the daily care and supervision of eligible children; administrative costs to manage the program; training of staff and foster care providers; recruitment of foster parents and costs related to the design, implementation and operation of a state-wide data collection system.

The fifty (50) States, District of Columbia and Puerto Rico are eligible to participate in the Foster Care Program awards. Beginning in FY 2010, direct funding will be available to Indian Tribes, Indian Tribal organizations and Tribal consortia (hereafter "Tribes"), with approved plans to operate the program. In addition, \$3 million of appropriated funds is reserved for technical assistance and plan development grants to eligible Tribes beginning in FY 2009. Only the public agency or Tribe designated to provide a program of foster care is eligible to apply for and receive direct title IV-E funding. Individuals and private entities may apply to the title IV-E Agency as sub-grantees or contracted providers.

### Program Highlights

Periodic and systematic review of State title IV-E foster care eligibility programs are conducted by the Children's Bureau to ensure Federal funds are expended for intended purposes and to recover improper expenditures. Full implementation of the final regulatory rule for the monitoring review advanced the Federal government's efforts in partnering with States to improve overall management of the foster care eligibility program and to secure safer foster care placements for children. Implementation also assisted our efforts in fulfilling our oversight responsibilities and in decreasing erroneous Federal payments to States. States responded to the monitoring reviews by initiating program assessments and improvements to meet compliance standards in anticipation of the reviews or by developing and implementing program improvements as a result of the reviews.

Since FY 2000, title IV-E Foster Care Eligibility Reviews have been conducted in each of the 50 States, Washington DC, and Puerto Rico. The regulatory reviews identified over \$21.8 million in Federal payments to States targeted for recovery of improperly claimed payments for foster care maintenance payments and related administrative costs.

A national payment error rate is calculated annually using data collected in the most recent eligibility review of each State and a corrective action plan is developed to strategically reduce or eliminate improper payments. The steps taken to monitor and reduce erroneous payments enable the Children Bureau to redirect resources as well as ensure Federal resources are spent in the most strategic way possible.

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **PEOPLE v. IN RE W. B., a minor**

No.: **S181638**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On May 18, 2011, I served the attached **RESPONDENT'S MOTION FOR JUDICIAL NOTICE** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Jonathan E. Demson, Esq.  
1158 26th Street, #291  
Santa Monica, CA 90403

Court of Appeal  
Fourth Appellate District, Div. Two  
3389 Twelfth Street  
Riverside, CA 92501

Hon. Paul E. Zellerbach  
Riverside County District  
3960 Orange Street  
Riverside, CA 92501

Hon. Christian F. Thierbach  
c/o Clerk of the Court  
9991 County Farm Rd.  
Riverside, CA 92501-3526

and furthermore declare, I electronically served a copy of the above document from the Office of the Attorney General's electronic notification address [ADIEService@doj.ca.gov](mailto:ADIEService@doj.ca.gov) on May 18, 2011 to Appellate Defender's, Inc's electronic notification address, [eservice-criminal@adi-sandiego.com](mailto:eservice-criminal@adi-sandiego.com).

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 18, 2011, at San Diego, California.

Olivia de la Cruz  
\_\_\_\_\_  
Declarant

*Olivia de la Cruz*  
\_\_\_\_\_  
Signature