

Overview of the Foster Care System in California

A Fact Sheet Prepared by the Youth Law Center

Foster care, the part of the state child welfare system that is designed to protect abused and neglected youth, provides a 24-hour state supervised living arrangement for youth who are in need of temporary substitute care because of abuse or neglect. The foster care system in California is a state-supervised, county-administered system. The California Department of Social Services provides oversight to 58 county child welfare agencies that provide direct administration and supervision of youth in the foster care system.

How does a youth get into foster care?

Youth are most frequently placed in foster care because a county child welfare agency has removed them from their home and a juvenile court has found that their parents cannot care for them. A youth who has been declared a “ward” of the court for committing a violation of law may also be placed in foster care if the court finds that returning the youth to their home would be contrary to their welfare. For additional information, see the Youth Law Center’s Fact Sheet: [Overview of the Juvenile Justice System](#). There are also specific laws, such as the Indian Child Welfare Act (ICWA), that establish standards and procedures for Indian youth in foster care that are meant to ensure and protect the connection to their tribe and tribal culture.¹

Every county child welfare agency must maintain a 24-hour response system to receive and investigate reports of suspected child abuse or neglect.² Once a call is received, the agency, pursuant to the Emergency Response Protocol of the department, must determine if the allegations require an in-person investigation and, if so, whether that investigation must be immediate.³ A social worker shall make an in-person response whenever a referral is received pursuant to California Welfare and Institutions Code §11254.⁴

When there is a report and the incident requires an in-person investigation, a social worker will determine if the safety of the youth is jeopardized if the youth stays in the same residence as their current guardian within 20 days of the referral.⁵ Upon completion of the investigation, the agency must determine whether the allegations are substantiated, inconclusive, or unfounded. Risk evaluation includes contacting collateral contacts, reviewing previous referrals, and evaluating other relevant information. Based on the risk posed to the youth, the agency may close the case with or without providing the family with referrals to community organizations for services.⁶

If the allegations are not unfounded, the agency may keep the case open and offer the family voluntary services to remedy and prevent future abuse or neglect without removing

¹ 25 U.S.C. § 1901-1925.

² Welf. & Inst. Code § 16504(a); see California Department of Social Services Manual of Policy and Procedures (MPP) §§ 31-010 to 31-015, *available at* <https://www.cdss.ca.gov/inforesources/letters-regulations/legislation-and-regulations/child-welfare-services-regulations>.

³ Welf. & Inst. Code § 16504(a); MPP § 31-105.

⁴ Welf. & Inst. Code § 16504(b).

⁵ Welf. & Inst. Code § 1650(b).

⁶ Welf. & Inst. Code § 328; MPP § 31-105.

the youth from their home.⁷ Voluntary services may include in-home emergency services for up to thirty days, family maintenance services for up to 6 months, or voluntary foster care placement services for up to 6 months.⁸

If the allegations are substantiated, the agency may seek court intervention and either:

- (1) Keep the youth in the home, file a petition in juvenile court to declare the child dependent, and provide the family with court supervised family maintenance services; or
- (2) Remove the youth from the home and file a petition in juvenile court (within 48 hours of the youth's removal excluding non-judicial days) to declare the youth a dependent of the court.⁹

Dependency proceedings may also be initiated by any person through an application to the county child welfare agency.¹⁰ The agency must immediately investigate to determine whether a dependency petition should be filed in juvenile court and notify the applicant within three weeks after the application of its filing decision and the reasons for the decision.¹¹ If the agency fails to file a petition, the applicant may, within one month after the initial application, seek review of the decision by the juvenile court.¹²

What happens when a youth is removed from their parents' home?

There are a variety of situations that could lead to the removal of a youth.¹³ If the youth is removed from their parents' home, the social worker will file a petition with the juvenile court requesting court involvement because of allegations of abuse or neglect. The parents must be given notice of the removal, their procedural rights, a telephone contact for the youth, and the date, time, and place of the detention hearing upon the filing of the petition in juvenile court.¹⁴ The youth will be placed in a foster care setting until the court determines whether the youth should remain in placement or should be returned to the parent's home.¹⁵

How will family members know if a youth has been taken into foster care?

When a youth is removed from home, the social worker or probation officer must conduct an investigation to identify and locate the grandparents, parents of a sibling of the youth (if the parent has legal custody of the sibling), adult siblings, and other adult relatives of the youth, including relatives suggested by the parent.¹⁶ Within 30 days of removal, the social worker or probation officer must notify the located relatives that the youth has been removed from home and provide information about the various options to participate in the care and

⁷ Welf. & Inst. Code § 16506; MPP § 31-125.

⁸ See Welf. & Inst. Code §§ 16506 & 16507.3 (for a list of conditions that result in eligibility).

⁹ Welf. & Inst. Code §§ 313, 324.

¹⁰ Welf. & Inst. Code § 329.

¹¹ Welf. & Inst. Code § 329; MPP § 31-135.

¹² Welf. & Inst. Code § 331.

¹³ Welf. & Inst. Code § 300.

¹⁴ Welf. & Inst. Code §§ 307.4 & 308.

¹⁵ Welf. & Inst. Code § 309.

¹⁶ Welf. & Inst. Code §§ 309(e)(1), 628(d)(2).

placement of the youth or support for the youth's family. This includes information about the consequences of failing to respond, how to become a caregiver for the youth, the supports and services available for a youth in out-of-home placement, and other options for maintaining contact with the youth.¹⁷ Notice does not have to be given to any relative with a history of family or domestic violence that would make such notice inappropriate.¹⁸

For Indian children, the ICWA requires that tribes be notified as soon as possible about the removal of a youth and afforded a chance to assert the rights provided by the ICWA. The social worker and court have a duty to investigate whether the youth is Indian and provide proper notice to the designated tribal representative. Notice must be sent to the parent or custodian of any Indian youth, and the tribe is permitted to intervene in the child custody proceeding. No foster care placement or termination of parental rights may be held until ten days after notice has been provided, and the parents or tribe must be allowed twenty days to prepare for such a proceeding.¹⁹

How does one become a relative caregiver to a youth?

The child welfare agency should contact relatives for placement, and if a relative is willing to take care of a dependent youth, they should let the youth's social worker and the juvenile court know of their interest as soon as possible. The child welfare agency and the court must give preferential consideration to **requests** by relatives, regardless of the relative's immigration status.²⁰ Preferential consideration means that the relative requesting placement must be the first placement to be considered and investigated.²¹ Preferential consideration does not guarantee that placement will be with that relative. The child welfare agency and the court must still consider whether placement with the relative would be appropriate to meet the youth's needs.²²

What is the role of the courts?

The juvenile court dependency process involves a series of hearings within specified time periods. Judges rely on assessments and information from social workers, service providers, and others to reach decisions about the youth's well-being.²³ There is also a review of the social worker's evidence to ensure that they used due diligence in investigating the matter.²⁴

When the youth is in custody:

Within 48 hours of removal (excluding non-judicial days), a **Petition** to declare the youth as

¹⁷ Welf. & Inst. Code §§ 309(e)(1)(A)-(B), 628(d)(2)(A)-(B).

¹⁸ Welf. & Inst. Code §§ 309(e)(1), 628(d)(2).

¹⁹ 25 U.S.C. §§ 1901, 1902, 1912, 1914; Welf. & Inst. Code §§ 224.2, 224(e). "Indian child" is defined as: "Any unmarried person who is under age eighteen and is either: (1) a member of an Indian tribe; or (2) eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe." 25 U.S.C. § 1903(4); Welf. & Inst. Code § 224.1-3.

²⁰ Welf. & Inst. Code § 361.3(a), (c)(2) ("relatives" defined as within the 5th degree of kinship).

²¹ Welf. & Inst. Code § 361.3(c)(1).

²² Welf. & Inst. Code § 361.3(a)(1)-(7).

²³ Welf. & Inst. Code §§ 319 & 358.

²⁴ Welf. & Inst. Code § 358.

a dependent must be filed in juvenile court.²⁵ By the end of the next judicial day after the petition is filed, an **Initial (Detention) Hearing** must take place or the youth must be released from custody.²⁶ At this hearing, the social worker will report to the court on the reasons for removal and the judge will either approve or deny the youth's temporary removal from the home.²⁷

Within 15 days of the Initial (Detention) Hearing the juvenile court must conduct a **Jurisdiction Hearing** to determine whether neglect or abuse has occurred, which must be proven by a preponderance of the evidence.²⁸ The petition is dismissed and the youth is released from care if the court does not sustain the allegations in the petition of abuse or neglect.²⁹ If the court does find that abuse or neglect has occurred, it must hold a **Disposition Hearing**.³⁰

Within 10 days of the Jurisdiction Hearing, the juvenile court must conduct a **Disposition Hearing** to determine the youth's placement and to establish a plan for either family maintenance or family reunification services.³¹ The court must determine whether there were "reasonable efforts" to keep the youth with their family before removal, otherwise the youth must return to their parents' home after removal.³²

Within 6 months of the Disposition Hearing (and no less frequently than every six months thereafter), the juvenile court must conduct a **Dependency Status Review** to evaluate the completion of the youth's case plan and to determine the continuing necessity for and appropriateness of the placement.³³ The social worker must file supplemental reports with updated information about the following considerations: whether the youth can be returned to the custody of the parents, the plan for the return of the youth to a safe home, and the health and education of the youth.³⁴ The report or action plan produced by the Child and Family Team (CFT) must also be attached to the court report (see below for more on CFTs).³⁵ The youth and parents and their respective attorneys are entitled to review the report at least 10 days before each status review hearing.³⁶ Unless the court determines that there is a risk of detriment to the safety, protection, or physical or emotional well-being of the youth by a preponderance of evidence, the court shall order the return of the youth to the physical custody of their parent or legal guardian.³⁷

Within 12 months of the Disposition Hearing, the juvenile court must conduct a **Permanency Planning Hearing** to determine if the youth can be reunited with their parents at all, and if not, to identify an alternative long-term plan - either adoption, legal

²⁵ Welf. & Inst. Code § 313.

²⁶ Welf. & Inst. Code § 315.

²⁷ Welf. & Inst. Code § 319(b)-(c).

²⁸ Welf. & Inst. Code §§ 334 (within 30 days of the filing of the petition if the child is not removed from home), 355; Cal. Rules of Court 5.670(f).

²⁹ Welf. & Inst. Code § 356.

³⁰ Welf. & Inst. Code § 358(a).

³¹ Welf. & Inst. Code § 358(a)(1).

³² Welf. & Inst. Code § 319(f)(1).

³³ Welf. & Inst. Code § 366(a)(1)(A)-(B).

³⁴ Welf. & Inst. Code § 366.1.

³⁵ Welf. & Inst. Code § 366.2.

³⁶ Welf. & Inst. Code § 366.05. See Welf. & Inst. Code § 366.21(c) (listing the requisite contents of the report).

³⁷ Welf. & Inst. Code § 366.21(e)(1).

guardianship, or a planned permanent living arrangement.³⁸ This hearing may take place at the 6-month mark if the child is under the age of 3 years old.³⁹ If the initial time period of court-ordered supervision and services is exceeded and the youth is not returned to the custody of the parents, the court can make a one-time extension of an additional 6 months if the court believes there is a substantial probability that the child will be reunified with their parents.⁴⁰

Legal Representation

Throughout this court process, the youth, the parents, and the child welfare agency will have legal representation. The youth has a right to be represented by counsel of their choosing and has the right to speak with them confidentially.⁴¹ If the youth is not represented by counsel, the juvenile court judge must appoint an attorney to represent the interests of the youth throughout the court proceedings unless the court finds, and states the reasons on the record, that the youth would not benefit from representation.⁴² The court may also appoint a court-appointed special advocate (CASA) to represent the best interests of the child by investigating the case and providing the court with independent information regarding the youth.⁴³ The foster youth has the right to receive notice of and to attend court hearings, to view their court file, and to receive a copy of their child welfare, educational, or juvenile court records.⁴⁴ The parents can retain, or will be appointed if they cannot afford, an attorney to represent them at the court hearings.⁴⁵ County counsel will usually represent the child welfare agency.

For Indian youth, the tribe has the right to participate in custody cases, including dependency proceedings, of any Indian child. A representative designated by the tribe must be allowed to attend all court hearings. In certain cases, the tribe can exercise “tribal jurisdiction” and have the case transferred to tribal court. If the case is not transferred, the tribe has the right to submit evidence, referrals, and proposed placements for the court to consider.⁴⁶

Caregivers are entitled to notice of and may attend status review and permanency hearings.⁴⁷ The social worker is required to provide the caregiver with a summary of their recommendations contained in the court report 10 days before the hearing.⁴⁸ Caregivers are permitted to file their own report containing their recommendations and update the social worker or the court about important developments affecting the youth.⁴⁹ In order to be considered, these recommendations should be submitted to the juvenile court before any

³⁸ Welf. & Inst. Code §§ 366.21(f)-(g), 366.26.

³⁹ Welf. & Inst. Code § 366.21(e)(3).

⁴⁰ Welf. & Inst. Code § 366.21(g)(1)-(2).

⁴¹ Welf. & Inst. Code § 349(b), 16001.9(a)(33).

⁴² Welf. & Inst. Code § 317(c)(1).

⁴³ Welf. & Inst. Code §§ 102, 102(c)(3), 103(g), 103(h).

⁴⁴ Welf. & Inst. Code §§ 16001.9(a)(34)-(36).

⁴⁵ Welf. & Inst. Code § 317(b).

⁴⁶ 25 U.S.C. § 1911; Welf. & Inst. Code §§ 16001.9(a)(34), 305.5. For additional information about how the ICWA applies to the court process, please refer to 25 U.S.C. §§ 1901-1925.

⁴⁷ Welf. & Inst. Code §§ 291(a), 16010.4 (e)(1)-(2).

⁴⁸ Welf. & Inst. Code § 366.21(c).

⁴⁹ Welf. & Inst. Code §§ 366.21(d), 16010.4(b).

hearing that may result in the return of the youth to their parents.⁵⁰

What are the long-term, permanent options for a youth when reunification is not possible?

Once it is determined that reunification with the youth's parent(s) will not happen, the juvenile court must conduct a ***Selection and Implementation Hearing*** within 120 days after the dispositional hearing where reunification services ended.⁵¹ The court must determine whether the youth is likely to be adopted and whether parental rights should be terminated.⁵² At this hearing, the court can order one of the following options as the youth's Permanency Plan:

(1) Adoption – Adoption is legally permanent. Once a child is adopted, they cannot be removed from their adoptive home unless the court determines that the adoptive parents are not taking proper care of the child.⁵³ Because of this permanency, adoption requires termination of the legal parents' rights or their consent to the adoption.⁵⁴ It also requires the consent of the child if they are over 12 years old.⁵⁵ Adoptive parents who adopt a foster child can receive financial assistance through the Adoption Assistance Program.⁵⁶ For more information on this program, see the Youth Law Center's Fact Sheet: [Adoption Assistance Program](#). For Indian youth, the adoptive placement preferences should be prioritized in the following order: extended family members, tribal members, or other Indian families.⁵⁷

(2) Guardianship – A guardianship temporarily suspends the rights and responsibilities of the child's parent and gives legal authority and responsibility to care for the child to a responsible adult who becomes the child's legal guardian.⁵⁸ Unlike a foster parent, a legal guardian has legal custody of the child and stands in place of the child's parent in providing for physical needs, such as food, clothing, shelter, medical care, and education.⁵⁹

Guardianship is not legally permanent as it only suspends the rights of the parents. Guardianship can be terminated by the court upon petition of the parent, guardian, or child, and automatically terminates upon the child's 18th birthday.

Relative caregivers who become legal guardians to a foster youth may be eligible to receive Kin-GAP funds, at the foster care rate the youth would have received in a county foster home.⁶⁰ For more information on this program, see the Youth Law Center's Fact Sheet: [Kinship Guardianship Assistance Program—Kin-GAP](#).

⁵⁰ Welf. & Inst. Code § 366.21(d).

⁵¹ Welf. & Inst. Code §§ 361.5(f), 366.21(g)(4), 366.22(a)(3), 366.25(a)(3).

⁵² Welf. & Inst. Code § 366.26(c).

⁵³ Welf. & Inst. Code § 366.26(b)(1).

⁵⁴ Welf. & Inst. Code § 366.26(b)(1); Cal. Fam. Code §§ 8604-8606.

⁵⁵ Cal. Fam. Code § 8602.

⁵⁶ Welf. & Inst. Code § 16115, 16118-16125.

⁵⁷ 25 U.S.C. § 1915(a).

⁵⁸ Welf. & Inst. Code §§ 366.26(b)(3), (5).

⁵⁹ For more information on the rights and responsibilities of a legal guardian for a dependent of the juvenile court, see: <http://www.courts.ca.gov/1206.htm>.

⁶⁰ Welf. & Inst. Code §§ 11364, 11387.

(3) Planned Permanent Living Arrangement – This is a long-term foster care placement and is the least preferred option under the law. The court may order this permanent plan for youth ages 16 and older only after considering, and ruling out, each of the other permanent plan options listed above.⁶¹ In order to provide this type of placement, the court must state a compelling reason for determining that a plan of termination of parental rights and adoption is not in the best interest of the youth.⁶²

The court will hold a **Post Permanency Planning Hearing** within 6 months to monitor the progress of the youth's long-term plan. A review hearing must be held at least every 6 months until the dependency case is closed.⁶³

Are there other ways youth can become part of the foster care system?

Yes. If a youth is made a "ward" (a delinquent or status offender) by the juvenile court, placement in foster care, such as a group home, is a dispositional option within the juvenile justice system.⁶⁴ If a youth is removed from their parents' home and placed in foster care, the probation agency is required to meet (in the delinquency system) the foster care requirements the social services agency must meet in the dependency system. Juveniles under the supervision of probation in foster care placements have the same rights in placement as youth in foster care placements under the supervision of a child welfare agency.⁶⁵

For more information on youth in the juvenile justice system, please see the Youth Law Center's Fact Sheet: [Overview of the Juvenile Justice System](#).

What is the role of the child welfare agency?

The child welfare agency's role is to provide the youth and family with supervision and case management services. A social worker is assigned to each case and has direct responsibility for providing these services.⁶⁶ A comprehensive case plan must be completed within 60 days of the youth's removal from the parents' home or by the date of the dispositional hearing, whichever comes first.⁶⁷ The case plan is a written document that sets out specific steps that the child welfare agency and the youth's family must take to try to return the youth to their parents' home.⁶⁸ The case plan must include the long-term placement goal for the youth, the recommended foster care placement, educational goals, a plan of services for the youth and their family, a visitation schedule for the parents and siblings of the youth, and a transitional independent living plan if the youth is 16 years old or older.⁶⁹ The Child and Family Team (CFT) and the foster youth have the right to be involved in the development and review of the case plan, including placement decisions and plans

⁶¹ Welf. & Inst. Code §§ 16501(i)(2), 366.26(c)(4)(B)(i)-(ii).

⁶² Welf. & Inst. Code § 366.3(h)(1).

⁶³ Welf. & Inst. Code § 366.3(d).

⁶⁴ Welf. & Inst. Code § 727(a)(4).

⁶⁵ Welf. & Inst. Code §§ 727, 727.1(a)-(c), 727.2, 727.3.

⁶⁶ See MPP §§ 31-000, 31-530 for child welfare services regulations.

⁶⁷ Welf. & Inst. Code §§ 16501(a)(2), 16501.1(e).

⁶⁸ Welf. & Inst. Code §§ 16501(a)(2), 16501.1.

⁶⁹ Welf. & Inst. Code § 16501.1.

for permanency. For Indian youth, the case plan must include protections of the essential tribal relations and consider the best interests of the youth that establish and maintain political and cultural relationships with the tribe.⁷⁰

The child welfare agency is also responsible for choosing the foster care placement, monitoring the youth's well-being (making, with limited exceptions, at least monthly face-to-face contact with the youth) and overseeing the implementation of the case plan.⁷¹

In addition, if the youth has siblings, the child welfare agency should attempt to place all siblings in foster care together in one placement and, if not, provide for ongoing and frequent interaction among siblings.⁷²

What is a Child and Family Team (CFT)?

A Child and Family Team is a group of individuals who are convened by a foster care placing agency (Child Welfare or Probation) and who are engaged through a variety of team-based processes to identify the strengths and needs of the child or youth and their family, and to help achieve positive outcomes for safety, permanency, and wellbeing. The CFT provides input into the youth's case plan and placement decisions. The CFT includes the youth, their family, and anyone who provides support to the family, including foster care providers, mental health providers, regional center representatives, CASAs, tribal representatives, and educational professionals.⁷³

The social worker must convene a Child and Family Team (CFT) meeting to gather input in the development of the case plan. The foster youth has the right to participate in all CFT meetings and also request additional meetings if they have concerns that should be addressed.⁷⁴ CFT meetings may include representatives providing formal support, such as the youth's caregiver, caseworker, mental health representative, legal counsel, or tribal representative. Under certain circumstances where the youth's education is affected by changes to the case plan, the youth's court-appointed educational rights holder must be invited to the meetings.⁷⁵ Notification of a convening of a CFT meeting must be provided to the youth, their parent or guardian, and the caregiver upon scheduling of the meeting. Additionally, the social worker must consider the recommendations provided by the CFT, document those recommendations, and provide a court report of the occurrence of the meeting.⁷⁶

What are the different types of foster care placements?

Youth in foster care are required to be placed in the least restrictive or most family-like setting that will meet their needs.⁷⁷ The child welfare agency must consider, in order of priority, placement with: kinship homes (relatives, non-relative extended family members, and tribal

⁷⁰ Welf. & Inst. Code § 16009.1(a)(37)-(38).

⁷¹ Welf. & Inst. Code §§ 16501(a)(1), (5), 16501.1(g)(4).

⁷² Welf. & Inst. Code §§ 361.2(j) and 16002.

⁷³ Welf. & Inst. Code § 16501(a)(4).

⁷⁴ Welf. & Inst. Code § 16001.9(a)(39).

⁷⁵ Welf. & Inst. Code § 16501(a)(5)(A)-(C).

⁷⁶ Welf. & Inst. Code § 16501(a)(1)(3)-(4).

⁷⁷ Welf. & Inst. Code §§ 16501.1(d)(1), 16000(a).

members); resource family homes (county or foster family agency approved); treatment foster homes (intensive, multidimensional, or therapeutic treatment programs); and lastly group care homes (short-term residential therapeutic programs, regional center vendorized group homes, community treatment facilities, and until July 1, 2022, out-of-state group homes in very limited circumstances).⁷⁸

There are additional placement options for youth aged 16 and older which provide youth more independence. Youth ages 16 to 18 can be placed in the Transitional Housing Placement program for Minors (THP-M), a licensed transitional housing placement for youth in foster care ages 16 to 18.⁷⁹ Youth ages 18 to 21 (nonminor dependents) can be placed in the Transitional Housing Placement program for Non-Minor Dependents (THP-NMD),⁸⁰ a licensed transitional housing placement for nonminor dependents (NMDs), or a Supervised Independent Living Placement (SILP), which is a placement approved and supervised by the county social worker for that NMD only.⁸¹ SILPs may include apartments, college dorms, rented rooms, or other shared living arrangements.⁸² Note: The THP-M and THP-NMD programs are different from THP-Plus, transitional housing for **former foster youth** ages 18 to 24 (or 25 in participating counties).

For Indian youth who are removed from their homes, the ICWA requires that state agencies prioritize placements in the following order: extended family members, a foster home licensed or approved by the youth's tribe, an Indian foster home licensed or approved by a non-Indian authority, or an institution approved by the tribe or operated by an Indian organization.⁸³

What is Extended Foster Care?

The California Fostering Connections to Success Act (Assembly Bill 12, 2010) commonly referred to as "AB 12," extended the age eligibility requirements for foster care as well as Kin-GAP and AAP for certain youth.⁸⁴ Foster youth who meet certain education or work-related participation requirements or youth who have a medical condition that prevents them from meeting the education or work requirements may remain in foster care until age 21.⁸⁵ However, participation in foster care after the youth has turned 18 is completely voluntary. After age 18, foster youth can choose to leave foster care and reenter care at any time and as many times as they wish before their 21st birthday.⁸⁶ There are four basic requirements for a youth aged 18 or older to participate in extended foster care. The youth must:

- (1) Have turned 18 years old while subject to an out-of-home placement order through the juvenile dependency or delinquency court; or if they turned 18 under a juvenile court legal guardianship or adoption order, then lost the support of their legal guardian or

⁷⁸ Welf. & Inst. Code § 16501.1(d)(1); see Assembly Bill 153 (2021).

⁷⁹ Welf. & Inst. Code § 16522.1(a)(1).

⁸⁰ Welf. & Inst. Code § 16522.1(a)(2).

⁸¹ Cal. Welf. & Inst. Code § 11400(w) and California Department of Social Services All-County Letter 11-77 (2011), available at <https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-77.pdf> at 6-7.

⁸² Welf. & Inst. Code §§ 11400(x), 11403(i).

⁸³ 25 U.S.C. § 1915.

⁸⁴ A.B. 12, Beall, California Fostering Connections to Success Act (2009-2010).

⁸⁵ Welf. & Inst. Code §§ 11403, 16501.1(d)(3).

⁸⁶ Welf. & Inst. Code §§ 11403(e), 11400(z).

adoptive parent;⁸⁷

(2) Currently be a dependent child of the juvenile court, a ward of the juvenile court, or a nonminor under transition jurisdiction;⁸⁸

(3) Meet one or more of the five participation conditions:

(4) (1) completing a secondary education program, (2) being enrolled in a postsecondary or vocational education program, (3) participating in a program or activity designed to promote or remove barriers to employment, (4) working at least 80 hours a month, or (5) being incapable of engaging in the aforementioned activities because of a medical condition⁸⁹ and

(5) Agree to live in a supervised licensed or approved placement.⁹⁰

Who pays for a foster youth's basic care while in foster care?

The county, state and federal governments fund the payments for youth in foster care.⁹¹ When a youth is placed in any of the above listed foster care placements, the placement is eligible to receive monthly payments on behalf of each youth equal to the basic foster care rate at the youth's assessed level of care. This may include a supplemental rate to meet the youth's special needs.⁹² The California Department of Social Services issues, at least annually, an All-County Letter on current foster care rates detailing the rates for different placement settings.⁹³

Parents may be billed and are liable for the reasonable care and supervision costs of a youth in foster care, but in determining liability for costs, the court will evaluate a family's ability to pay.⁹⁴

What are a foster youth's rights while in out-of-home care?

California has a "Foster Youth Bill of Rights" that provides youth in care with a variety of protections for their health, safety, and general well-being.⁹⁵ These rights apply to all youth in foster care, including nonminor dependents, and all foster youth must be given an age and developmentally appropriate explanation of these rights and be able to report violations of the rights.⁹⁶

In addition to the Bill of Rights, foster youth have protections under other state statutes and regulations, such as the Community Care Licensing regulations under Title 22 of the California Code of Regulations.⁹⁷

⁸⁷ Welf. & Inst. Code §§ 11400(v)(1), 388.1.

⁸⁸ Welf. & Inst. Code § 11400(v).

⁸⁹ Welf. & Inst. Code § 11403(b)(1)-(5).

⁹⁰ Welf. & Inst. Code § 11401(g)(3)(A).

⁹¹ Welf. & Inst. Code §§ 11401 & 15200; Cal. Health & Safety Code § 1511.

⁹² Welf. & Inst. Code §§ 11460-11463; School of origin transportation supplement may also be available if the child will continue to attend a school attended prior to placement. See Welf. & Inst. § 11460(b).

⁹³ See CDSS All County Letter 21-76 (June 26, 2021), *available at* <https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACLs/2021/21-76.pdf?ver=2021-07-19-115429-903>.

⁹⁴ Welf. & Inst. Code §§ 903, 903.4.

⁹⁵ Welf. & Inst. Code § 16001.9(a) (enumerates rights).

⁹⁶ Welf. & Inst. Code §§ 1530.91, 16001.9(a)(40)-(41).

⁹⁷ 22 C.C.R. §§ 80072, 83072, 84072, 89372.

Safety and Respect – Every youth in foster care has a right to live in a safe, healthy, and comfortable home where they will be treated with dignity and respect. They have a right to fair and equal access to available services and to be free from physical, sexual, and mental abuse. Foster youth have the right to not be subjected to discrimination based on race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity or expression, mental or physical disability, or HIV status. Each youth in foster care also has the right to be provided healthy food, adequate clothing, individual storage space, an age-appropriate allowance, and grooming and hygiene products that respect the youth's culture, ethnicity, and gender identity or expression.⁹⁸

Placement – Every foster youth has the right to be placed with an appropriate, willing, and available relative or nonrelative extended family member. They have the right to be in a placement that utilizes trauma-informed and deescalation techniques.⁹⁹ Every caregiver, child welfare or probation personnel, and legal counsel must be instructed on cultural competency and best practices for providing care for certain groups in foster care, such as Indian youth or LGBTQ youth. Youth must be placed according to their gender identity, regardless of the gender or sex listed on official documents, and be referred to by their preferred name or gender pronoun.¹⁰⁰ Each youth has the right to be placed in the least restrictive placement setting, regardless of age, health, sexual orientation, gender identity or expression, juvenile court record, or status as a pregnant or parenting youth.¹⁰¹ Indian youth have the right to live in a home that upholds the social and cultural standards of their community, such as family, social, and political ties. They also have the right to have recognition of their political affiliation with an Indian tribe or Alaskan village, to receive assistance in becoming a member of the tribe, or to receive member benefits of tribal affiliation.¹⁰²

Childhood Experiences – Foster youth are entitled to participate in age-appropriate extracurricular, cultural, racial, ethnic, personal enrichment, and social activities. Foster youth also have the right to maintain a bank account, work and develop age-appropriate job skills, and must be given equal and fair access to computer technology and the internet.¹⁰³ State and local policies should promote and protect the ability of foster youth to participate in these activities. State law also provides that no state or local regulation or policy may prevent or create barriers to participation in those activities.¹⁰⁴ Youth also have the right to attend religious services, activities, or ceremonies of their choice, including engaging in traditional Native American religious practices.¹⁰⁵

Visitation and Contact – Youth in foster care have the right to privately visit with parents, grandparents, siblings, and other family members.¹⁰⁶ In addition, for youth aged 10 and

⁹⁸ Welf. & Inst. Code § 16001.9(a)(1)-(3), (17).

⁹⁹ Welf. & Inst. Code § 16001.9(a)(5), (7).

¹⁰⁰ Welf. & Inst. Code § 16001.9(a)(18)-(19).

¹⁰¹ Welf. & Inst. Code § 16001.9(a)(4).

¹⁰² Welf. & Inst. Code § 16001.9(a)(14), (21), (37).

¹⁰³ Welf. & Inst. Code § 16001.9(a)(16), (30)-(31).

¹⁰⁴ Welf. & Inst. Code §§ 362.05, 727(a)(4)(F).

¹⁰⁵ Welf. & Inst. Code § 16001.9(a)(15).

¹⁰⁶ Welf. & Inst. Code §§ 16001.9(a)(12), 362.1(a), 16501.1(g)(5)-(6), 16507(a).

older who have been in foster care for at least six months, the social worker is required to ask the youth to identify individuals important to the youth in their case plan and take the actions necessary to maintain contact with such individuals.¹⁰⁷ Foster youth also must be provided contact information for social workers, probation officers, attorneys, service providers, and Court Appointed Special Advocates. They have a right to make and receive confidential phone calls, to send or receive unopened mail, and to have other forms of confidential contact with anyone.¹⁰⁸ Indian youth have a right to maintain contact with their Indian community and tribal members consistent with the social and cultural conditions of their tribe.¹⁰⁹

Education – A foster youth has a right and a responsibility to attend school.¹¹⁰ They also have a right to the same school resources, services, and extracurricular activities as other students in the same school.¹¹¹ A foster youth has the right to stay in their original school (or attend its feeder school when transitioning between school levels) if their foster care placement changes, so long as it is in the youth’s best interest.¹¹² California law requires that each county and each school district have a Foster Care Education Liaison to ensure proper school placement, transfer of a foster youth’s educational records, and assistance with their enrollment in school.¹¹³ Youth in foster care must also have access to information about educational opportunities such as technical or postsecondary educational programs, financial aid, and specialized programs for foster youth at the University of California, the California State University, and the California Community Colleges.¹¹⁴

The youth’s legal parents or legal guardian retain the right to make decisions about the youth’s education **unless** the juvenile court specifically appoints another responsible adult to make educational decisions on behalf of the youth.¹¹⁵ The appointed adult will most likely be the youth’s foster parent, relative caregiver, or court-appointed special advocate. The advocate cannot be the youth’s social worker, probation officer, or anyone employed by the youth’s current county placing agency, group care placement provider, or school.¹¹⁶

Health Care – Every youth in California’s foster care system is covered by Medi-Cal.¹¹⁷ Youth in foster care have a right to health care, which includes medical, dental, vision, reproductive, substance abuse, and mental health services. This includes gender affirming physical and mental health care for transgender or transitioning individuals.¹¹⁸ All youth, including foster youth, in California age 12 and older, have the right to access “sensitive

¹⁰⁷ Welf. & Inst. Code §§ 366(a)(1)(B), 366.1(g).

¹⁰⁸ Welf. & Inst. Code §§ 16001.9(a)(11), (13).

¹⁰⁹ Welf. & Inst. Code § 16001.9(a)(14).

¹¹⁰ Welf. & Inst. Code § 16001.9(a)(27).

¹¹¹ Welf. & Inst. Code §§ 361(a)(6), 726(c)(2).

¹¹² Welf. & Inst. Code § 16001.9(a)(27); Cal. Educ. Code § 48853(a)(1), 48853.5(f). Foster care providers may be eligible for a transportation allowance for transportation to the school of origin. See Welf. & Inst. Code § 11460(b).

¹¹³ Cal. Educ. Code § 48853.5(c).

¹¹⁴ Welf. & Inst. Code § 16001.9(a)(28).

¹¹⁵ Welf. & Inst. Code §§ 361(a), 16001.9(a)(25).

¹¹⁶ Welf. & Inst. Code § 361(a).

¹¹⁷ Foster youth who emancipate from foster care on or after their 18th birthday may continue to receive Medi-Cal coverage up to age 26. Welf. & Inst. Code § 14005.28.

¹¹⁸ Welf. & Inst. Code § 16001.9(a)(22).

health care services” and accurate medical information without an adult’s permission.¹¹⁹ These services include preventing or treating pregnancy (including birth control, abortion services, or having a baby), and services related to the treatment of sexually transmitted diseases, drug or alcohol use, rape, or sexual assault.¹²⁰ A child may also obtain outpatient mental health treatment without an adult’s permission if the doctor finds the child mature enough and if the child presents a danger to themselves or others without the treatment.¹²¹

What if a youth is being mistreated in foster care?

If a youth in foster care, or an advocate, believes there is something wrong with the youth’s foster care placement, care, or services, or that they are being discriminated against based on their gender, race, color, religion, sexual orientation, or for any other reason, they may contact the youth’s social worker, county child welfare agency, or any of the following:

Office of the State Foster Care Ombudsman

This office in the California Department of Social Services is mandated to investigate and resolve complaints about the care, placement, and services of youth in foster care.¹²² Call 1-877- 846-1602 or email fosteryouthhelp@dss.ca.gov. In addition to the state office, most counties in California have their own Ombudsman offices, which may be contacted to resolve the problem. To file a complaint or find additional information: <https://fosteryouthhelp.ca.gov>.

Community Care Licensing Division

CCLD ensures compliance with foster care licensing requirements and is authorized to conduct investigations into complaints of mistreatment in licensed foster care placements. Contact information is available at: <http://www.cclld.ca.gov/contact.htm>

County Child Welfare Agency - Grievance Procedures

Foster parents, legal parents, guardians and youth in foster care can file a grievance with the county child welfare agency concerning the placement or removal of a youth from a foster home with certain limitations. A complainant must file a request for review within 10 calendar days after becoming aware

of the action under complaint. Unless the youth is in immediate danger, they will remain with the foster parent(s) pending the county’s decision if removal is the basis for the complaint.¹²³

¹¹⁹ Cal. Fam. Code §§ 6925-6929.

¹²⁰ Cal. Fam. Code §§ 6925-6929; Welf. & Inst. Code § 16001.9(a)(24)(A)-(C).

¹²¹ Cal. Fam. Code § 6924(b).

¹²² Welf. & Inst. Code § 16164.

¹²³ MPP § 31-020.

Resources:**California Department of Social Services Manual of Policy and Procedures**

<https://www.cdss.ca.gov/inforesources/letters-regulations/legislation-and-regulations/child-welfare-services-regulations>

California Dependency Online Guide

<https://cdependencyonlineguide.info/>

California Family Code

<https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=FAM&tocTitle=+Family+Code+-+FAM>

Foster Care Rates

<http://www.cdss.ca.gov/inforesources/Foster-Care/Foster-Care-Audits-and-Rates/Foster-Care-Rate-Setting>

Contains links to CDSS All County Letters and Notices regarding foster rates.

Indian Child Welfare Act for Kin Caregivers and Foster Parents

<https://www.courts.ca.gov/documents/ICWA-Act-for-Kin-Caregivers.pdf>

Resource Family Approval (RFA) Information and Resources

<http://www.cdss.ca.gov/inforesources/Resource-Family-Approval-Program>

Contains links to statutory authority (WIC 16519.5); CDSS All County Letters and Notices; RFA Written Directives (approval standards); Forms; Background Assessment Guide; FAQs; Training Materials; and other resources on the RFA process.

Welfare and Institutions Code

<https://leginfo.legislature.ca.gov/faces/codesTOCSelected.xhtml?tocCode=wic>