

## Extended Foster Care Reentry in California

### A Fact Sheet Prepared by the Youth Law Center

This fact sheet addresses the process of voluntary reentry into California's Extended Foster Care (EFC) Program. For a general overview of California's foster care system, please see Youth Law Center's Resource [Foster Care Overview Fact Sheet](#).

### What is Extended Foster Care (EFC)?

Extended Foster Care (EFC) is a statewide program that allows eligible young people to remain in foster care as **nonminor dependents (NMDs)**<sup>1</sup> between the ages of 18 and 21 and to access age-appropriate supports and services to help them transition to adulthood, including housing and case management.<sup>2</sup>

### Who is eligible for EFC?

To be eligible for EFC, a young adult must:

- (1) Have turned 18 years old while subject to a foster care placement order through the juvenile dependency or delinquency court<sup>3</sup>; or turned 18 under a juvenile court legal guardianship or adoption order, then lost the support of their legal guardian or adoptive parent;<sup>4</sup> AND
- (2) Continue to be under the placement and care authority of the county placing agency (child welfare, juvenile probation, or tribe/organization) and be placed in a licensed or approved setting;<sup>5</sup> AND
- (3) Have a **transitional independent living case plan (TILCP)** that documents the youth's willingness to satisfy one of the following five participation conditions under Welf. & Inst. Code §11403(b).<sup>6</sup>

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<sup>1</sup> Welf. & Inst. Code §§ 11400(v), 11400(aa).

<sup>2</sup> A.B. 12, Beall, California Fostering Connections to Success Act (2009-2010).

<sup>3</sup> Youth who were subject to a foster care placement order on their 18th birthday and whose adjudication was subsequently vacated under Penal Code § 236.14 are also eligible for EFC. Welf. & Inst. Code § 388(e)(1)(B).

<sup>4</sup> Welf. & Inst. Code § 11400(v)(1), 388.1.

<sup>5</sup> Welf. & Inst. Code § 11400(v)(2).

<sup>6</sup> Welf. & Inst. Code § 11400(v)(3).

## Can youth leave EFC? Can they reenter EFC if they leave?

Yes and yes! EFC is an “opt out” program and participation in foster care after age 18 is completely voluntary. Youth who opt out of EFC and have the court close their case remain under the general jurisdiction of the court pursuant to WIC 303(b), and may reenter the program any time before they turn 21 pursuant to WIC 388(e).<sup>7</sup>

Note that there are special EFC reentry criteria for youth who turned 18 under a juvenile court legal guardianship or adoption order, then lost the support of their legal guardian or adoptive parent.<sup>8</sup> These criteria are described in more detail in the chart below.

Special Population	388.1 EFC Reentry
Nonminors in juvenile court guardianships receiving either Kinship Guardianship Assistance Payment Program (Kin-GAP) benefits or Aid to Families with Dependent Children-Foster Care (AFDC-FC) benefits	<p>Nonminor former dependent<sup>9</sup> who received Kin-GAP or AFDC-FC after age 18, whose former guardian(s):</p> <ul style="list-style-type: none"> <li>• Died after the nonminor turned 18 years old, but before the nonminor turned 21 years old; OR</li> <li>• No longer provide ongoing support to, and no longer receive aid on behalf of the nonminor after the nonminor reaches 18 years old but before the nonminor turns 21.<sup>10</sup></li> </ul> <p>OR the nonminor former dependent:</p> <ul style="list-style-type: none"> <li>• Entered a legal guardianship under the same circumstances as above, and would have received Kin-GAP or AFDC-FC payments but for the receipt of Supplemental Security Income (SSI) or another Social Security Administration (SSA) aid/benefits.</li> </ul>

<sup>7</sup> Welf. & Inst. Code §§ 11400(z), 388(e), 366.31(a). Note: this resource does not address Welf. & Inst. Code §388(f) petitions for a nonminor to exit and reenter care to establish eligibility for federal financial participation. For more about this process, see California Department of Social Services (CDSS), All-County Letter (ACL) 22-72 (2022), available at <https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACLs/2022/22-72.pdf?ver=2022-09-12-145517-470>.

<sup>8</sup> Welf. & Inst. Code § 388.1. See also CDSS All-County Information Notice (ACIN) I-76-15, available at [https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acin/2015/I-76\\_15.pdf](https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acin/2015/I-76_15.pdf) and ACIN I-76-15E, available at [https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acin/2016/I-76\\_15E.pdf](https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acin/2016/I-76_15E.pdf).

<sup>9</sup> Welf. & Inst. Code § 11400(aa)(2): “‘Nonminor former dependent or ward’ means a nonminor who is over 18 years of age and, while a minor, was a dependent child or ward of the juvenile court when the guardianship was established pursuant to Section 360 or 366.26, or Section 728(d), and the juvenile court dependency or wardship was dismissed following the establishment of the guardianship.”

<sup>10</sup> CDSS ACL 19-13 (2019), available at <https://www.cdss.ca.gov/Portals/9/ACL/2019/19-31.pdf?ver=2019-04-18-104334-970>.

<b>Nonminors adopted in the juvenile court receiving Adoption Assistance Program (AAP) benefits</b>	Nonminor receiving AAP benefits whose adoptive parent(s): <ul style="list-style-type: none"> <li>• Died after the nonminor turned 18 years old, but before the nonminor turned 21 years old; OR</li> <li>• No longer provide ongoing support to, and no longer receive benefits on behalf of the nonminor after the nonminor reaches 18 years old but before the nonminor turns 21.<sup>11</sup></li> </ul>
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### How does a youth reenter EFC?

To reenter foster care and receive EFC services and supports, the youth must sign a **Voluntary Re-entry Agreement** (“VRA”)<sup>12</sup> ([SOC 163](#)) with the county placing agency and either subsequently or simultaneously complete and file with the juvenile court form **JV-466**, *Request to Return to Juvenile Court Jurisdiction and Foster Care*.<sup>13</sup>

Once the youth and the county placing agency (child welfare, juvenile probation, or tribe) sign the VRA, then the youth is considered under the care and supervision of the county and the youth can be immediately placed.<sup>14</sup> The following table provides a basic timeline for the court reentry processes.<sup>15</sup>

### Court Reentry Timeline for WIC 388(e) Petition or WIC 388.1 Petition

Action	Who?	When?
Voluntary Re-Entry Agreement (VRA) (SOC 163) is signed	Youth and County Placing Agency	Whenever an eligible youth would like to reenter extended foster care.
388(e) petition or 388.1 petition (as applicable) is filed on the youth’s	County Placing	Within <b>15 days</b> of the date the VRA is signed.

<sup>11</sup> Note: CDSS ACL 19-13 interprets Assembly Bill (AB) 2337 (Gipson, 2018) as allowing reentry for both nonminor former dependents who would have received Kin-GAP or AFDC-FC payments but for SSI/SSA aid/benefits AND for nonminors who would have received AAP payments but for SSI/SSA aid/benefits; however, Cal. Welf. & Inst. Code § 388.1(a)(3)-(4) does not include parallel language allowing for reentry for youth who received SSI or SSA benefits in lieu of AAP payments.

<sup>12</sup> Welf. & Inst. Code § 11400(z).

<sup>13</sup> Welf. & Inst. Code § 11400(z); see also Cal. Rule of Court 5.906.

<sup>14</sup> Welf. & Inst. Code § 11403(e) and CDSS ACL 19-105 (2019), available at <https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACLs/2019/19-105.pdf>.

<sup>15</sup> Welf. & Inst. Code §§ 388(e), 388.1; see also Cal. Rule of Court 5.906.

behalf in the court of jurisdiction using the JV-466 Request to Return to Juvenile Court Jurisdiction and Foster Care	Agency <sup>16</sup>	
If the youth resides in another county than the county that retained general jurisdiction (or for 388.1 reentries - the court that had jurisdiction at the time of the guardianship or adoption), the youth can file the 388(e) or 388.1 petition in their county of residence. The court in the county of residence must then forward the petition to the court with general jurisdiction.	Court in youth's county of residence	The court in the county of residence must send the petition to the court of general jurisdiction (or that had jurisdiction at the time of the guardianship or adoption) within <b>2 days</b> of its submission. The court having general jurisdiction shall receive the petition from the court where the petition was submitted within <b>5 court days</b> of its submission.
Court reviews the petition to determine whether a prima facie showing has been made under 388(e)(2)(A)(i-iii) or 388.1(c)(1)(A-D) (as applicable) and Cal. Rule of Court 5.906(d)(1) and enters an order pursuant to Cal. Rule of Court 5.906(d)(2) or (d)(3) .	Juvenile Court with Jurisdiction	Within <b>3 court days</b> of the filing of the petition. If the court determines that a prima facie showing has been made, the judicial officer must issue a written order appointing an attorney to represent the nonminor solely for the hearing on the request. <sup>17</sup>
Court reentry hearing date set (if prima facie showing has been made)	Juvenile Court with Jurisdiction	Hearing held within <b>15 judicial days</b> of the date the JV-466 petition was filed with the court of general jurisdiction or for 388.1 reentries, the court that had jurisdiction over the child at the time of the guardianship or adoption.
Prepare and submit the WIC 388(e) or 388.1 EFC Re-Entry Hearing Report to the court for the hearing	County Placing Agency	The WIC 388(e) or 388.1 EFC Re-Entry Hearing Report and supporting documentation must be filed with court <b>2 days</b> before the

<sup>16</sup> The County Placing Agency is required to file the JV-466 within 15 days of the date the VRA is signed; however, the youth or their advocate may also elect to file the JV-466 at an earlier date. Welf. & Inst. Code §§ 388(e)(1)(A), 388.1(e)(2).

<sup>17</sup> Cal. Rule of Court 5.906(d)(3).

		hearing and the county placing agency must provide a copy to the nonminor and to the nonminor's attorney of record. <sup>18</sup>
Prepare and submit a new Transitional Independent Living Case Plan (TILP) to the court for the WIC 366.31 Review Hearing	County Placing Agency with Youth	Within <b>60 calendar days</b> from the date the youth signed the VRA.
WIC 366.31 Review Hearing	Juvenile Court	Within <b>70 days</b> of the assumption or resumption of dependency jurisdiction.

### Does the reentry hearing need to happen before the youth can access housing and benefits?

No. The signing of the VRA is the earliest possible **Beginning Date of Aid (BDOA)**. The BDOA is the date that the NMD and county of jurisdiction sign the VRA or the day that the NMD is placed in a licensed or approved setting, whichever occurs later. Thus, after signing the VRA, *NMDs are eligible for benefits as soon as the NMD is placed in an appropriate setting*. It is the county's obligation to identify an appropriate placement and initiate supports for the NMD. If the NMD does not have safe, appropriate housing at the time the VRA signed, the placing agency is responsible for offering a placement to the NMD *prior to the re-entry hearing*.<sup>19</sup>

Placement types for NMDs include the same placements available for minor dependents and three additional placements specific to NMDs called **Supervised Independent Living Settings (SILS)**.<sup>20</sup> These placement types are outlined below:

SIL Settings	Description
<b>Transitional Housing Placement Program for Nonminor Dependents</b>	<ul style="list-style-type: none"> <li>THP-NMD is a transitional housing program that provides (1) housing and (2) supportive services to NMD foster youth. THP agencies are licensed as children's residential facilities by the Community Care Licensing Division (CCLD) of CDSS.</li> <li>County placing agency is responsible for identifying and securing</li> </ul>

<sup>18</sup> Cal. Rule of Court 5.906(h)(2).

<sup>19</sup> CDSS ACL 19-105.

<sup>20</sup> Welf. & Inst. Code § 11400(w).

<b>(THP-NMD)<sup>21, 22</sup></b>	THP-NMD for the NMD, which may include homes with a host family (screened and selected by the THP provider), apartments/homes rented or owned by the provider with either adult staff on site or regular check-ins with off-site staff, or a housing unit rented or leased to the NMD with the THP-NMD provider co-signing the lease or rental agreement. <sup>23</sup>
<b>Transitional Living Setting (TLS)<sup>24</sup></b>	<ul style="list-style-type: none"> <li>• A transitional living setting approved by the county to support youth reentering EFC or transitioning between placements - intended to be a short term option.</li> <li>• County placing agency is responsible for identifying and securing TLS for the NMD, which may include independent living settings such as hotels, motels, staying with a friend, or other alternative housing options that provide short-term housing.</li> <li>• Intended to be a short-term transitional setting, a TLS is subject to <u>neither the individual approval requirements of a SILP nor the licensing requirements of a THP.</u></li> </ul>
<b>Supervised Independent Living Placement (SILP)<sup>25</sup></b>	<ul style="list-style-type: none"> <li>• Flexible, independent supervised setting in which the nonminor is living independently.</li> <li>• NMD is responsible for identifying their own SILP, which may include apartments/homes (including with roommates, with the youth's own child(ren) and/or partner, or the youth's parent or guardian), single room occupancies, renting a room (including from a former caregiver), adult residential treatment facility, or dorm/university housing.</li> </ul>

<sup>21</sup> Welf. & Inst. Code §§ 11400(x)(2)-(3), 16522.1(a)(2); Health & Safety Code § 1559.110(a)(2)(B).

<sup>22</sup> To learn more about the THP-NMD program, see Youth Law Center's [Fact Sheet: Transitional Housing Placement Program for Nonminor Dependents](#).

<sup>23</sup> Note: a THP-NMD participant shall not be permitted to *solely* sign a rental or lease agreement. (emphasis added) Health & Safety Code § 1559.110(e).

<sup>24</sup> Welf. & Inst. § 11400(x)(4); see CDSS ACL 21-95 (2021), *available at* <https://www.cdss.ca.gov/Portals/9/Additional-Resources/Letters-and-Notices/ACLs/2021/21-95.pdf?ver=2021-08-18-163613-730>.

<sup>25</sup> Welf. & Inst. § 11400(x)(1), (w).

## Who makes the placement decision?

Though the county placing agency bears responsibility for providing a safe and appropriate placement at all times, including upon signing of the VRA, the placing agency must make decisions regarding placement in partnership with the youth.<sup>26</sup> The Child and Family Team (CFT) is a critical support and resource that can help to ensure that youth and their support network are involved in any placement decisions.<sup>27</sup> A CFT must occur within 60 days of entry into foster care, but can occur sooner upon request of the CFT.<sup>28</sup>

## What happens if a youth's reentry petition is denied?

Depending on the reason for the denial, the youth may be able to appeal the denial, or file a new re-entry petition once circumstances change. The county placing agency has an obligation to assist the youth in establishing and maintaining eligibility for extended foster care. Additionally, the youth does not need to meet the participation requirements under WIC 11403(b) at the time of the reentry hearing, nor do they need to have a TILP before reentering. They only need to *intend* to satisfy, and agree to satisfy, at least one of the participation requirements under WIC 11403(b).

## Resources:

California Department of Social Services, ALL COUNTY LETTERS

<http://www.cdss.ca.gov/inforesources/Letters-Regulations/Letters-and-Notices/All-CountyLetters>

California Department of Social Services, EXTENDED FOSTER CARE (AB 12)

<https://www.cdss.ca.gov/inforesources/foster-care/extended-foster-care-ab-12>

County Welfare Directors Association of California (CWDA), RE-ENTRY CONTACT LIST

<https://jbay.org/resources/ab12-contacts-roster/>

Welfare and Institutions Code

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

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<sup>26</sup> Welf. & Inst. § 16501.1(d)(3) and ACL 19-105.

<sup>27</sup> Welf. & Inst. § 16501(a)(4)(A)(ii).

<sup>28</sup> CDSS ACL 16-84, pg. 5, available at

<https://www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acl/2016/16-84.pdf> and Welf. & Inst. § 16501(a)(5).