FROM 17-21: WHAT LAWYERS, JUDGES AND AGENCIES SHOULD BE DOING FOR KIDS AGING OUT OF FOSTER CARE

Presented by the American Bar Association Section of Litigation and Center for Professional Development
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This publication accompanies the audio program entitled “From 17-21: What Lawyers, Judges and Agencies Should Be Doing for Kids Aging Out of Foster Care” broadcast on March 12, 2013 (event code: CET3FST).
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From 17-21:
What Lawyers, Judges, and Agencies Should Be Doing for Kids Aging out of Foster Care
Tuesday, March 12th, 2013 | 1:00 PM Eastern
Sponsored by the ABA Section of Litigation & Center for Professional Development

Education

- Most studies show foster youth to be less likely than their peers to earn a high school diploma or GED
- Studies find that former foster youth have low rates of college attendance

<table>
<thead>
<tr>
<th>At age 21…</th>
<th>Midwest Study</th>
<th>Add Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>No high school diploma/GED</td>
<td>23.0</td>
<td>10.8</td>
</tr>
<tr>
<td>High school diploma only</td>
<td>37.6</td>
<td>29.7</td>
</tr>
<tr>
<td>GED only</td>
<td>9.7</td>
<td>6.6</td>
</tr>
<tr>
<td>One or more years of college but no degree</td>
<td>27.9</td>
<td>43.0</td>
</tr>
</tbody>
</table>
Foster youth in transition face a very difficult time achieving financial independence. Compared to their peers they:

- Experience lower rates of employment
- Have lower wages, which frequently leave them in poverty
- Are more likely to rely on government assistance

<table>
<thead>
<tr>
<th>Age 21, in past 12 months…</th>
<th>Midwest Study</th>
<th>Add Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not enough $ to pay rent</td>
<td>26.5</td>
<td>8.6</td>
</tr>
<tr>
<td>Not enough $ to pay utility bill</td>
<td>26.5</td>
<td>10.9</td>
</tr>
<tr>
<td>Phone service disconnected</td>
<td>32.8</td>
<td>19.1</td>
</tr>
<tr>
<td>Evicted</td>
<td>8.3</td>
<td>1.4</td>
</tr>
<tr>
<td>Mean number of hardships</td>
<td>1.02</td>
<td>0.46</td>
</tr>
</tbody>
</table>

Foster youth in transition are more likely than their peers to experience involvement with juvenile and adult justice systems

<table>
<thead>
<tr>
<th></th>
<th>Males</th>
<th>Females</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Midwest Study</td>
<td>Add Health</td>
</tr>
<tr>
<td></td>
<td>Add Health</td>
<td>Add Health</td>
</tr>
<tr>
<td>Ever arrested</td>
<td>77.0</td>
<td>20.1</td>
</tr>
<tr>
<td>Arrested since age 18</td>
<td>55.3</td>
<td>7.5</td>
</tr>
<tr>
<td>Ever incarcerated</td>
<td>69.3</td>
<td>---</td>
</tr>
<tr>
<td>Incarcerated since age 18</td>
<td>54.0</td>
<td>---</td>
</tr>
</tbody>
</table>
Changing Norms about Young Adulthood

- Parents spend an average of $38,000 on each child aged 18-34, or about $2,200 a year for education, housing, food, or cash.
- Parents give an average of 367 hours of family help per year even when their grown children live away from home.
- 19 percent of males and 10 percent of females aged 25-34 live with parents.

Legal Landscape

- State initiatives
  - Palmer v. Cuomo - youth discharged to homelessness
- Federal initiatives
  - 1987 funding for independent living
  - 1999 Chafee - transitional Medicaid and funding for transitional services (housing, education etc.)
  - 2010 Fostering Connections – transitional independent living plan, financial support, new placements
  - 2014 Health Care Reform – coverage to age 26
### Federal Law Requirements – Permanency/Support of Family Connections

- **Relative Notification**—42 U.S.C.A. 671 (a)(29)
  - Notification to grandparents and adult relatives w/in 30 days of removal
- **Sibling Placement and Visitation**—42 U.S.C.A. 671 (a)(31)
  - Reasonable efforts to be made to place siblings together and assure frequent visitation if joint placement cannot be done safely

### Federal Law Requirements – Ensuring Services are Provided to Achieve Permanency

- **Least Restrictive/Most Family Like Guarantee**—42 U.S.C.A. 675 (5)(A)
- **Reasonable Efforts to Finalize the Permanency Plan**—45 CFR 1356.21 (b)(2)
  - Findings must be made at every permanency hearing
### Federal Law Requirements – Restricting the Use of APPLA

- Requirements around Selecting APPLA as the permanency goal—42 U.S.C.A. 675 (5)(C)(i); 45 CFR 1356.21(h)(3)
  - Another Planned Permanent Living Arrangement is the least preferred permanency goal
  - The goal can only be changed to APPLA after the court has determined that compelling reasons exist to rule out the other plans

### Federal Law Requirements – Provisions that Assist with the Achievement of Permanency

- State option to provide extended permanency subsidies—42 U.S.C.A. 675 (8)(B)
  - State option to extend foster care, guardianship and adoption subsidies until age 21 for permanency arrangements entered into when the youth is 16 and older
- Expansion of IL Services and ETV –42 U.S.C.A. 677 (a)(7) & (i)(2)
  - Youth who were adopted or entered guardianships at age 16 or older are eligible for IL and ETV
Supporting Connections – AB 408 (Steinberg 2003)

- Must ask every child 10 years or older to identify people who are important to them
- May ask children younger than 10
- Make efforts to identify people who are important to the child and maintain those relationships, consistent with best interest

Supporting Connections – AB 408 (Steinberg 2003)

- Determine whether reasonable efforts have been made to preserve these relationships for youth in group homes
- Make any order to maintain those relationships
- Issue appropriate orders to maintain relationships if court orders TPR
Supporting Connections – AB 408 (Steinberg 2003)

• Notice to youth 10 years and older – must include the right to attend the hearing

• If youth is not present in court, the court must determine:
  – Whether the youth was properly notified
  – The reason the youth is not present

Supporting Connections – AB 408 (Steinberg 2003)

• Youth have the right to engage in age appropriate extracurricular, enrichment, and social activities.
• State must encourage approaches -> no child leaves foster care without a lifelong connection to a committed adult.
• ILP planning includes individuals important to the child.
• Child Welfare Training Program includes importance of maintaining relationships with individuals important to the child.
State Law - Fictive Relatives

**Georgia Law:** Within 30 days after the removal of a child from the custody of the parent(s) of the child, the Department shall exercise due diligence to identify a parent or relative of the child or other persons who have demonstrated an ongoing commitment to the child (O.C.G.A. §15-11-55(a)(2)(B))

- Georgia law is more expansive than Fostering Connections, Title I, Sec. 103, in that it requires the Department to identify not only grandparents and relatives, but also those individuals who have demonstrated an ongoing commitment to the child (i.e., fictive relatives)

Practice Considerations – Relative Notification

**Consideration** – Parent is often gatekeeper of family/fictive resources.

- **Strategy:** Have ongoing discussions with youth about all family and fictive resources options.
- **Strategy:** Encourage legitimations and notice to fathers.
- **Strategy:** Use internet, other non-traditional options to locate potential permanency resources.
- **Strategy:** Request specificity on record and in court order of agency’s Diligent Search Efforts. Seek “No Reasonable Efforts” finding.
Practice Consideration – APPLA

Consideration – Insufficient efforts to identify and develop permanency resources for youth

- **Strategy:** Request specificity on record and in court order of agency’s Reasonable Efforts. Seek “No Reasonable Efforts” finding requiring the agency to continue to seek a more appropriate permanency plan.

Consideration – Youth may wish to remain in foster care

- **Strategy:** Work with youth to develop permanent connections. Engage “permanent connection” in youth’s transition process and foster care case.

Independent Living Planning—Case Plan Requirements in Federal Law

The Case Plan Must Include:

- **IL Services -- 42 USCA 675(1)(D)**
  - For a child age 16 or over, a written description of the programs and services which will help such child prepare for the transition from foster care to independent living.

- **Plan for Educational Stability-- 42 USCA 675(1)(G)**
## Independent Living Planning—Case Review Requirements in Federal Law

The Court Must Find

- IL Services are being Provided--42 USCA 675(5)(C)(i)
  - in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living

## Independent Living and Transition Planning Requirements – Credit Reports

- Credit Report Requirement--42 USCA 675 (5)(I)
  - Youth ages 16 and older must be provided with:
    - A copy of any credit report each year until discharge
    - Assistance in resolving any errors or issues that the report reveals
## Transition Planning—Case Review Requirements In Federal Law

<table>
<thead>
<tr>
<th>42 USCA 675 (5)(H)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• The Transition Plan should be developed during the 90 period prior to a discharge from care or the ending or Chafee services for a youth age 18 or older.</td>
</tr>
</tbody>
</table>

## Transition Planning—Case Review Requirements In Federal Law—42 USCA 675 (5)(H)

<table>
<thead>
<tr>
<th>• The Plan should include specific options related to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>– Housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services</td>
</tr>
<tr>
<td>– Health care decision-making and vehicles for ensuring that decision-making rights are protected/planned for under state law (health care power of attorney, health care proxy, guardianship, etc.)</td>
</tr>
</tbody>
</table>
Transition Planning - Applying for SSI

• For title IV-E eligible youth, applications for SSI can be submitted 90 days prior to discharging from care
  
  https://secure.ssa.gov/apps10/poms.nsf/lnx/0500601011!opendocument

Transition Planning - Provision of Records

• 42 U.S.C.A. 675 (5)(D)
  – A youth’s health and education records should be provided to them at no cost when they discharge from care at age 18 or older
Transition Planning - Aftercare Obligation

- 42 U.S.C.A. 677 (b)(3)(A)
  - Chafee Act requires states to certify that they will provide “assistance and services to children who have left foster care because they have attained 18 years of age, and who have not attained 21 years of age.”

IL Planning: State Policy and Practice Examples—PA Juvenile Court Rule 1608

At each permanency review for youth 16 and older, findings must be made on the record regarding the following:

- Specific IL services currently provided
- IL services that will be provided in the next 6 months
- If youth is in the least restrictive setting that will enable the development of IL skills
- Efforts to develop supportive connections regardless of placement type
- Whether the youth is making progress towards graduation
- Job readiness services that have been provided and career goals
- Any health/behavioral health needs that will require services into adulthood
- Steps being taken to ensure stable housing or an appropriate living arrangement upon discharge

For full court rule, see http://www.jlc.org/fosteringconnections/legalresources
Before court supervision can be terminated for a youth 18 or older:

- The court must hold a hearing
- A transition plan must be presented and approved that includes, at minimum:
  - Specific plans for housing
  - Description of youth’s source of income
  - Specific plans for pursuing education/training
  - Employment goals and if youth is employed
  - The health insurance and any health/behavioral health needs and how they will be met post-discharge
  - Programs that will provide mentors or assistance in establishing supportive adult connections
  - Verification that vital documents have been provided to the youth
  - A description of any other support services

If the court is not satisfied with the transition plan, a new hearing shall be scheduled and appropriate orders issued.

“The court shall not terminate its supervision of the child without approving an appropriate transition plan…..”

For full court rule, see http://www.jlc.org/fosteringconnections/legalresources
State Law –
Written Transitional Living Plan

**Georgia Law:** O.C.G.A. 15-11-58 Requires the judge, within 30 days of order specifying reunification plan, to issue a supplemental order

- Requiring Agency to develop a written transitional living plan (WTLP) 90 days before the youth turns 18;
- Personalizing the WTLP at the direction of the youth;
- Including specific options on housing, health insurance, education, mentors/support services, and employment services

Practice Consideration –
Written Transitional Living Plan

**Consideration** – Developing and implementing a transition plan often takes much longer than 90 days.

- **Strategy:** Review the plan. Involve the youth.
  - Investigate availability of services/resources
  - Ensure that Written Transitional Living Plan meets statutory or policy requirements
  - Consult with child-client to ensure child’s engagement and consent

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**State & Local Practice – Foster Care Exit Review Hearing**

**LOCAL POLICY:** At least 90 days before a child-client turns 18, Foster Care Exit Hearing required:

- Child-client must be present
- Child-client must state intended permanency and educational/vocational plan
- Written Transitional Living Plan (WTLP) submitted for adoption
- Confirm that Agency has vital records. Request presentment of state issued ID.

*See Exhibit – Foster Care Exit Review Hearing Order*

**State Practice – Transition Roundtables**

**GEORGIA POLICY:** A transition roundtable (TRT) is held at least 90 days prior to the youth’s exit from foster care for youth and IL personnel to:

- (1) Jointly develop specific plans to address:
  - Permanent connections
  - Housing
  - Health insurance & health needs
  - Education
  - Job skills
  - Independent living skills
- (2) Design services & identify supports

Source: Foster Care Services Manual, Section 1012.1

*See Exhibit – Discharge Plan for Youth Aging Out of DFCS Custody*
**State Policy – Aftercare**

**Georgia Policy:** Agency must advise foster youth aged 16 and over of the ability to request foster services extend beyond age 18.

- Services include:
  - Transitional Living Supportive Services
  - Emergency Financial Assistance (up to 90 days to stabilize living conditions or personal circumstances)
  - Post-Secondary Education Financial Support

*Source: Foster Care Services Manual, Section 1012.6*

---

**Practice Consideration – Expansion of IL Services**

**Consideration** – Access to IL Services after guardianship or custody is modified prior to youth turning 18 may be problematic

- **Strategy:** Ensure that custodian is aware of IL meeting and personnel.
- **Strategy:** Request court order reflect guarantee of subsidy to custodian until youth graduates
- **Strategy:** Request specificity of IL Services on the record and in the court order
Practice Consideration – Aftercare

Youth Involvement in IL Services

Consideration – Funding is often attached to youth attendance & behavior.

- **Strategy**: Be aware of transportation challenges

- **Strategy**: Counsel transitioning youth about consequences of non-attendance and non-compliance

Consideration – Consider whether IL Services adequately prepare youth for independence?

Practice Consideration – Re-Entry & Aftercare

Consideration – Once youth leaves foster care, access to resources and/or re-entry options may be difficult to secure.

- **Strategy**: Ensure that youth are aware of aftercare resources, rights and youth-obligations prior to turning 18.

*See Exhibit- Comparison of Post 18 Option for Foster Youth*
Practice Consideration – Records

**Consideration** – Youth who elect to leave care before (runaway) or after turning 18. Records maintained by the agency are often the best resource for the child to access vital records.

- **Strategy:** Ensure that comprehensive education, vital and health records are secured by the agency prior to the youth turning 18. Request “production of records” for court’s examination to ensure comprehensiveness. Advise youth of right to request records upon turning 18.

---

Practice Consideration – Educational Stability

**Consideration** – Youth in foster care often change placements, which disrupts their education; Youth often do not have the supports needed for educational success

**Strategy:** Advocate for the following:

- (1) Placement stability
- (2) Appointment of Education Advocate
- (3) Identify resources for education fees (e.g., tutoring, summer school, books, etc.)
- (4) Collaborate with school system personnel for specialized foster youth advocacy

*See Exhibit – Memorandum of Understanding: School System & DCCAC*
Transitioning Youth Community Engagement Initiative

**CORPORATE RELATIONS**
- Grants
- Donations
- Externships
- Training
- Staff Prof. Development
- CRM Program Partnerships
- Publicity

**COMMUNITY**
- Services
- Volunteers
- Stable Partners
- Mutual Benefits by investments to improve community outcomes
- Resources
- Publicity

**GOVERNMENT**
- Department Infrastructure
- Resources
- Access to Gov’t Opportunities
- Cover
- Validation
- Protect and Serve Citizens
- Publicity

**DATA**

**PUBLIC RELATIONS**

**IMPACT**

**BETTER OUTCOMES FOR CHILDREN & YOUTH**

Health and Disability Federal Law – Medicaid

- Optional program to extend Medicaid to 21 –

- Mandatory extension to age 26 –
  – Beginning in 2014
  – CMS Proposed rules
    78 Fed. Reg. 4593-4724 (January 22, 2013)
Health and Disability
Federal Law – Health Plan

• IV-B Child Welfare Plan – Health Care
  42 U.S.C. §622(b)(15)
• Ongoing oversight and co-ordination of health care services
• Co-ordinated strategy to identify and respond to health care needs
• Including mental health and dental care
• Should include transition planning

Health and Disability
Federal Law – Extension of Assistance

• Adoption Assistance and Kinship Guardianship Assistance (optional program)
  – Extension of support to age 21
  – Children with a mental or physical handicap that warrants continuation of assistance
    42 U.S.C. §673(a)(4)(A)
• Foster care beyond 18 (optional extension)
  – Participation exception – youth who is incapable of activities due to a medical condition
### Health and Disability Co-ordination with Other Programs

- **EPSDT to age 21** - 42 U.S.C. §§ 1396a(a)(10), 1396a(a)(43), 1396d(a)(4)(B), & 1396d(r)
- **Adult rehabilitation, mental health, and developmental disability programs**

### Why is it important to consider SSI for transition-age foster youth?

- **Disabled youth fare poorly**
- **SSI links to Medi-Cal and does not end when dependency ends**
- **SSI eligibility may qualify youth for permanent affordable housing** – can use time in EFC to apply for these housing slots!
- **Social Security has programs to help recipients pursue education or attempt work without losing eligibility**
- **Youth can receive school scholarships and receive SSI simultaneously**
- **Allows youth additional time to establish SSI eligibility under adult standards**
CA Legislation to Assist Foster Youth With Disabilities

**AB 1633**
- (1) development of best practice guidelines
- (2) counties manage benefits in youth’s best interests
- (3) assist youth in receiving direct payment of finding payee
- (4) Inform youth of process of maintaining eligibility as adults

**AB 1331**
- (1) Screen every youth for SSI eligibility between age 16.5 and 17.5
- (2) Make an SSI application on behalf of likely eligible youth
- (3) Goal to have SSI in place by age 18!

---

Sample SSI Application Timeline

**Goal of AB 1331 is for disabled youth to exit care with SSI in place**
Special issues for Fostering Connections
Extensions - Federal Law Options

Option to Expand Definition of Child--42 U.S.C.A. 675 (8)(B)

- Under age 21 and is engaged in one of the following:
  - completing secondary education or a program leading to an equivalent credential;
  - enrolled in an institution which provides post-secondary or vocational education;
  - participating in a program or activity designed to promote, or remove barriers to, employment;
  - employed for at least 80 hours per month;
  - incapable of doing any of the [above activities] due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

Special Issues for Fostering Connections
Extensions - Expansion of Placement Settings

Creation of New IV-E Reimbursable Placement Setting--42 U.S.C.A. 672 (c)(2)

- Amends definition of “child-care institution” to include for youth 18-21, “a supervised setting in which the individual is living independently…..”
- Federal guidance
  - provides state great flexibility in designing this option.
  - Examples include: dorms, apartments, host homes, direct payment to youth.

Continuum of Placement Options in CA

Least Autonomous

- Group Home
- Foster Family or Relative Caregiver

Most Autonomous

- Transitional Housing Placement Program (THPP)
- Transitional Housing Placement - Plus Foster Care (THP+FC)
- Supervised Independent Living Placement (SILP)

CA-Supervised Independent Living Placement (SILP)

- Subject to readiness assessment/placement approval
- No service provider/ no caregiver
- Settings may include but not limited to:
  - Apartment living
  - Room and board arrangements (including with a relative or family friend)
  - Shared roommate settings,
  - Dorms
- NMD may receive the foster care benefit directly – limited to basic rate (currently $776.00/month)
- Parenting NMDs receive the Infant Supplement.
CA- THP+Foster Care

- Modeled after existing transitional housing program and offers affordable housing and supportive services
- Licensed by the State
- Important placement option for youth “stepping down” from group homes
- Existing transitional housing program to remain in place for youth:
  - ages of 21 and 24,
  - under age 21 who do not want to participate in extended care
  - who do not meet one of five participation conditions
- THP-Plus FC is a IV-E eligible placement

How Many Youth Will Participate?

- IL: 81% - 60% - 61%
- NY: 69% - 39% - 38%
- CA: 54% - 30% - 31% - 0%
Re-Entry

- Allow youth to re-enter – must meet IV-E criteria for Federal Financial Participation
- Court order for foster care placement on the 18th birthday
- Voluntary Placement Agreement – authority for placement
- New foster care episode – income and resources of the youth only
- Court maintains general jurisdiction – re-entry is a modification CA Welf. & Inst Code §388.

Youth Adjudicated Delinquent

- Dilemma – probation supervision after youth has met rehabilitative goals
- Three options – CA Welf. & Inst. Code §§450 & 607.2
  - Maintain delinquency
  - Return former foster youth to dependency
  - Transfer into transition jurisdiction – new category
Important to Consider Parenting Youth

• By age 21, half of young women and one-third of young men in foster care will become parents, more than double the incidence in the general population
• Parenting and pregnant youth are 200% more likely to drop out of high school than to graduate from high school.
• Extending support to age 21 means adapting to meet these needs.
• CA is attempting through SB 528
### Legal Issues for Adults

- Who gets notice of court hearings?
- Who can attend court hearings?
- What about reunification?
- Who consents for medical care and waives confidentiality?
- What is the relationship between the youth and his or her attorney? What about best interest?
- What about adult adoptions?

---

### Questions?

- Alice Bussiere, Staff Attorney, *Youth Law Center*, San Francisco, CA
- Amy Lemley, Policy Director, *John Burton Foundation*, San Francisco, CA
- Jenny Pokempner, Supervising Attorney, *Juvenile Law Center*, Philadelphia, PA
- Trenny Stovall, Director, *DeKalb County Child Advocacy Center*, Decatur, GA
- Brent Pattison (Moderator), Director, Middleton Center for Children’s Rights, *Drake University Law School*, Des Moines, IA
Judicial Guide to Implementing the Fostering Connections to Success and Increasing Adoptions Act of 2008 (PL 110-351)
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I hope the legal community will find this Judicial Guide helpful. Please share it with others as we all work together to effectively implement this law.

Heidi Redlich Epstein, JD, MSW
Director of Kinship Policy
American Bar Association Center on Children and the Law

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The views expressed herein have not been approved by the ABA House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association.

The findings and conclusions presented in this report are those of the author(s) alone, and do not necessarily reflect the opinions of Casey Family Programs.

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Introduction

Judicial Guide to Implementing the Fostering Connections to Success and Increasing Adoptions Act of 2008 (PL 110-351)

The Fostering Connections to Success and Increasing Adoptions Act – Public Law 110-351, ("Fostering Connections") is a federal law primarily designed to promote permanent families for children and youth in foster care. This law encourages maintaining family connections, supporting youth transitioning from foster care, ensuring the health and educational well-being for foster youth, and providing many Native American children important federal protections and support for the first time by allowing Tribes to directly administer their local programs authorized by Title IV-E of the Social Security Act.

To enable this law to fulfill its purpose, it is critical for courts to provide judicial oversight regarding the implementation of Fostering Connections at every hearing and at each stage of the case. The active role of judges hearing dependency cases can make the difference between Fostering Connections being effectively implemented and states failing to comply with the law and enabling foster children to benefit from the reforms in the new law. If judges fulfill this oversight role by regularly asking questions, they create an expectation of compliance for all parties and as a result practice continues to improve, as was the intent of this new law. Finally, as a major stakeholder in the child welfare system, courts can play a role in convincing the state agencies and legislatures of the need to take advantage of the law’s optional provisions and help reinforce the need for proper implementation and training.

Many of the provisions of Fostering Connections took effect on October 7, 2008, the date of the law’s enactment, and were required to be implemented immediately. However a delay was permitted if state legislation was required for implementation. Provisions requiring immediate implementation included:

- identification and notice to relatives
- sibling placement requirement
- transition plans for youth
- educational stability and attendance
- health oversight and coordination plan, and
- adoption incentive program expansion

Other provisions have become available to states as options or take effect over time. For example, as of October 1, 2009, the phase in of additional federal adoption assistance funds began to make children with special needs eligible. For a complete list of provisions and an implementation timeline see: http://www.childrensdefense.org/child-research-data-publications/data/FCSIAA-appendices.pdf.
On July 9, 2010, the US Department of Health and Human Services, Administration for Children and Families, Children’s Bureau issued a Program Instruction (hereinafter referred to as the “Program Instruction”) to provide guidance on the implementation of Fostering Connections. This Program Instruction emphasizes the importance of the court’s role in oversight and implementation of Fostering Connections and reinforces the best practices advocated within this document. Generally, guidance is persuasive federal authority to assist states with the implementation of law. See: Program Instruction, ACYF-CB-PI-10-11.

In some circumstances, the requirements and options under Fostering Connections enhance and complement existing state policies and practices. In other situations, these federal requirements may necessitate changes in state policy and/or practice, including those of the courts. Therefore, it is important to consider how Fostering Connections interacts with existing laws and policies, such as the Adoption and Safe Families Act (ASFA), recognizing that a number of provisions in Fostering Connections are federal requirements that must be implemented.

This document presents a brief overview of each section of Fostering Connections, outlines some general judicial considerations for implementation and provides questions to be asked from the bench to help ensure compliance with the law and best practice. It is important to note that while the brief overviews in each section are limited to what is required under Fostering Connections and the relevant guidance issued, the judicial considerations and questions to be asked from the bench may go further in supporting best practices. The considerations and questions focus on implementation of Fostering Connections but also touch on issues that, though not required by Fostering Connections, are important for judges to consider when applying best practice principles in addition to the requirements. Keep in mind that Fostering Connections, like ASFA, amends the Social Security Act, therefore the provisions should be read in the context of that law. For the complete text of Fostering Connections see: http://www.grandfamilies.org/text of law.
Title I: Connecting and Supporting Relative Caregivers

Section 101: Kinship Guardianship Assistance Payments for Children

Overview
Fostering Connections gives states the option to use federal Title IV-E funds for kinship guardianship assistance payments (GAP) for Title IV-E eligible children cared for by relative foster parents committed to caring for these children permanently when they leave foster care. Prior to Fostering Connections, 38 states¹ and the District of Columbia had some form of subsidized guardianship supported by state or local funds, TANF or the Title XX Social Service Block Grant. Eleven states² over time had waivers from HHS allowing them to use Title IV-E funds for subsidized guardianship payments. When Fostering Connections was enacted, six of the states with waivers were still operating programs under the waiver authority, while the other five continued the program with state dollars for at least those children who had exited to guardianship under the waiver. These subsidized guardianship programs varied dramatically in size and scope. The use of federal funding for subsidized guardianship, as authorized by Fostering Connections, will help free funds previously used for state guardianship programs and will help children placed with relative foster parents achieve permanency. Judges should provide judicial leadership to get their state to pursue this option.

Eligibility - Children
Children eligible for the federal guardianship assistance program must be eligible for Title IV-E federal foster care maintenance payments while in the home of the relative for at least six (6) consecutive months. They must demonstrate a strong attachment to the prospective relative guardian and, if 14 and older, the child must be consulted about the kinship guardianship arrangement. Siblings of eligible children may be placed in the same home and receive support even if they themselves are not otherwise eligible. As stated in Section 206 – Sibling Placement, children should be placed with their siblings unless it is contrary to the safety or well-being of any of the siblings. Children eligible for these IV-E guardianship payments are also automatically eligible for Medicaid.

Eligibility - Guardians
Guardians are eligible if they are relatives who have assumed legal guardianship of the child and have demonstrated a strong commitment to care for the child permanently. They must have cared for the child for at least six (6) consecutive months as a licensed foster parent (and have undergone criminal record and child abuse registry checks). Kinship caregivers who choose not to adopt should be encouraged to pursue subsidized guardianship and not forced to adopt.

Case Plan Requirements
For each child with a permanency plan of guardianship and for whom the state plans to make federal kinship guardianship assistance payments, the agency must document:

²Delaware, Illinois, Iowa, Maryland, Minnesota, Montana, New Mexico, North Carolina, Oregon, Tennessee, and Wisconsin.
the steps taken to determine that return home and adoption are not appropriate options for the child,
the reasons for any separation of siblings,
the reasons why guardianship is in the child’s best interests,
the ways in which the child meets the eligibility requirements,
the efforts to discuss adoption with kinship caregivers and the reasons why adoption was not chosen, understanding that the reason that kin choose not to adopt may be cultural, and
the efforts to discuss guardianship with the child’s parents or reasons why such efforts were not made.

State Requirements
The state must amend and submit a revised state Title IV-E plan to the Administration for Children and Families, Children's Bureau, Department of Health and Human Services requesting Title IV-E funds for GAP and must provide the state and/or local dollars required to match federal dollars for the program. The kinship guardianship assistance payment rate must not exceed the foster care payment made to a foster family had the child remained in a foster family home. The state must also share, under the federal match, the total cost of nonrecurring expenses associated with obtaining legal guardianship of a child up to $2,000.

The state must negotiate a written guardianship assistance agreement with prospective guardians. The agreement must specify the amount of payment and manner of adjustment of payment. Please note that the child maintains eligibility for adoption assistance in the event that the guardian wants to adopt the child later, if the child was eligible for such assistance when he or she exited to guardianship. Additionally the kinship guardianship agreement remains in effect even if the guardian moves to another state.

Under Fostering Connections, federal kinship guardianship assistance (GAP) payments are only available when the child and guardian meet all of the Title IV-E eligibility requirements and have entered into a guardianship assistance agreement that meets the requirements of the Federal law. To provide the greatest number of children with this important permanency option, states may operate a subsidized guardianship program, which utilizes Title IV-E, other federal, state, and/or local resources, to support both children who are eligible for IV-E GAP and those who are not.

Judicial Guide to Implementing the Fostering Connections Act of 2008

Judicial Considerations

- How does your state define relative, if at all?
  - Does it include “fictive” kin, people who are not related by blood, marriage or adoption to the child, such as Godparents and close family friends, but have a significant relationship to the child or family?
  - Is your definition of relative consistent with the definition used for the identification and notice provisions?
  - The Program Instruction issued on July 9, 2010 gives states discretion to define “relative” as they see fit and encourages states to use the same definition for both the GAP program and the identification and notice provisions. See sections D and H: Program Instruction, ACYF-CB-PI-10-11.

- Are lawyers available to represent relatives in your area?
  - Under Fostering Connections, the state must pay non-recurring costs required to obtain a guardianship up to $2,000, which includes the cost of legal representation for the relative guardian.
  - Under Fostering Connections, increased resources are available to help train judges and attorneys in the event that additional legal resources are needed in your area. See: Section 203 - Short-Term Training for Child Welfare Agencies, Relative Guardians and Court Personnel

- Does the court order address the following, if applicable?
  - The case plan requirements for GAP (see below)
  - The contact/visitation plan with the parents, siblings, or other relatives - including whether the visitation is supervised, location, frequency, best interest controls
  - Clarify the rights of guardians vs. rights of parents
  - Identify a successor guardian, or need for a standby guardian if the guardian is chronically or terminally ill or require a court hearing if the guardian is no longer able to care for the child
  - Any other necessary provisions or conditions required under ASFA or state law

- Is there a clear process for considering modification of guardianship orders and the underlying assistance agreements, when necessary; i.e., change in custody or visitation terms, change in supports or services needed by the child, successor guardian?
  - This process can be documented in the form of policy, local court rules or state statute

Questions to Ask from the Bench

- Does the case plan meet all of the requirements of Fostering Connections?
  - Why is guardianship the most appropriate option for the child?
    - What steps have been taken to determine that reunification and adoption are not appropriate options for the child?
    - Is guardianship in the child’s best interest?
  - If siblings are not going to be placed together in a guardianship, because of contrary to safety or well-being, why not, and what is the plan to keep them connected? See Section 206 – Sibling Placement.
    - The Program Instruction allows states to define siblings for the purposes
Overview
Fostering Connections authorizes a new grant program for activities designed to connect children in foster care (or at risk of entering foster care) with family. Funds can be used for the creation or expansion of:

1. Kinship navigator programs;
2. Intensive family-finding efforts to search for relatives or other important individuals in the child’s life and establish family connections;
3. Family group decision making, team decision making and other similar family group conferencing meetings; or
4. Residential family substance abuse treatment programs that prevent separation or facilitate reunification while parents receive comprehensive treatment services.

Section 102: Family Connection Grants

Did the child meet all eligibility requirements of GAP?

- Is the child eligible for Title IV-E federal foster care maintenance payments?
- Has the child been living in the home of the licensed, prospective relative guardian for at least six (6) consecutive months?
- In what ways does the child demonstrate a strong attachment to the prospective relative guardian?

- What efforts have been made to discuss adoption with kinship caregivers and the reasons why adoption was not chosen?

- What efforts have been made to discuss guardianship with the child’s parents or reasons why such efforts were not made?

If the child is age 14 and older, how has he or she been consulted about the guardianship? What feedback did the child provide regarding guardianship, if any?

- When appropriate, consider consulting the child in chambers or allowing the child to testify, if they would like to be heard.
- The court should also consider consulting with younger children, in a developmentally appropriate manner.

In what ways has the guardian demonstrated a commitment and ability to care for the child permanently?

What is the relationship between the guardian and the parents?

What is the visitation plan, if applicable?

- Should the visits be supervised?
- What is the location and frequency of the visits?
- Should the order contain a clause that the best interest of the child ultimately determines visitation? What is the process to determine the best interests of the child?

Who is the successor or standby guardian?

Are there any other necessary provisions or conditions that should be specified in the court order?
The act guarantees $15 million a year for competitive, matching grants to state, local, or tribal child welfare agencies and nonprofit organizations that have experience working with children in foster care or kinship care. $5 million of these funds are reserved each year for grants for kinship navigator programs. New grants are expected to be solicited in 2011.

See: List of FY 2009 Children's Bureau Discretionary Grant Awards for a list of programs that have been funded to date.

**Judicial Considerations**

- Are there any of these programs in your area (see link above for list)?
- If there are programs in your area, what are the eligibility requirements? How might they be helpful to families coming before you?
- Are there similar programs available to the families before you, such as through the CASA/GAL program or an agency trained by the National Institute for Permanent Family Connectedness (formerly the Center for Family Finding)?
  - Judges should be familiar with local resources and if there are none, be willing to develop them.
- If there is not a formalized program, what efforts has the agency made to locate family members, including any missing or unidentified parents, and the use of the Federal and State Parent Locator Service (see: Section 103: Identification of and Notice to Relatives)?
- If there are no programs in the area, are any local agencies or organizations planning to apply for a grant in the future?
  - Judges should be willing to inquire and lead stakeholders in grant applications.

**Questions to Ask from the Bench**

- Were referrals made to relevant programs that could be helpful?
  - If not, should you order the agency to make a referral?

**Section 103: Identification of and Notice to Relatives**

**Overview**

Within 30 days after the child is removed from his or her parents’ custody, Fostering Connections requires state agencies to exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of a child (including any other adult relatives suggested by the parents).

The notice must:
1. specify that the child was removed from the custody of the parent(s),
2. explain the options the relative has to participate in the care and/or placement of the child, and any options that may be lost by failing to respond to the notice,
3. describe the requirements to become foster parents,
4. outline available services and supports, and
5. describe the state’s kinship guardianship assistance program (GAP), if one exists.

Further, Fostering Connections makes it very clear that this notice requirement is subject only
to exceptions due to family or domestic violence. The law does not allow for any other
exceptions to notice.

Although Fostering Connections does not require such notice to be in writing, best practice and
the Program Instruction issued by Administration for Children and Families, Children’s Bureau,
Department of Health and Human Services encourages the notice to be in writing,
recommends early engagement of relatives for children at risk of removal and the use of
multiple methods of notice to relatives.

The Act also allows the use of the Federal Parent Locator Service to obtain state and federal
child support data to help child welfare agencies carry out their responsibilities. On December
29, 2010, the Office of Child Support Enforcement in the Administration on Children and
Families issued a Final Rule expanding the disclosure of information in Federal and State
Parent Locator Services to child welfare agencies to assist them in locating relatives of children
removed from the custody of their parent(s) to identify potential placements for the child.

Federal, state and local laws require child welfare agencies to keep certain information
confidential. The requirement that states provide notice that a child is entering or has entered
foster care supersedes and preempts those provisions. However, only the information
necessary to comply with this federal requirement can be shared. The relative should simply
be notified of the removal or impending removal and provided the information described above.
There is no requirement to share the circumstances leading to the removal in the initial notice.
If the child is placed with the relative or the relative becomes involved in the child’s care,
additional information may be shared as appropriate. As in most aspects of child welfare
practice, a determination of what can be shared will depend upon the individual circumstances,
as well as local, state and federal law.

While all state laws and policies may not yet comply with this federal requirement, this notice
requirement has been in effect since October 2008. See: Key Considerations for Implementing
the Notice Requirement of the Fostering Connections to Success and Increasing Adoption Act
and the 50 state and the District of Columbia compilation of data on current state notice
statutes at www.grandfamilies.org. See also: Sample Notice Letter at http://

Judicial Considerations

- The Program Instruction stresses that the courts can play an important role in relative
  identification and notification.
- Beyond the federal relative identification and notice requirements, what are your state’s
  relative notice requirements or policies?
  - Will the agency continue to proactively identify and provide notice to family
    members beyond the 30 day requirement, when appropriate?
  - The Program Instruction encourages engagement of relatives for children at risk
of removal as well.

- How does your state define relative for purposes of notice, if defined?
  - Is your definition of relative consistent with the definition used for your state’s kinship guardianship assistance program (GAP)?
  - The Program Instruction issued on July 9, 2010 gives states discretion to define “relative” as they see fit and encourages states to use the same definition for both the GAP program and the identification and notice provisions. See sections D and H: Program Instruction, ACYF-CB-PI-10-11.

- How is due diligence defined in your state? How can the court ensure that due diligence has been exercised?
- How are identification, location, and engagement of non-custodial parents handled?
- What documentation should the court require to show that proper due diligence was exercised in identifying and providing notice to all adult relatives?
  - How is the state documenting diligent search efforts and their outcomes, including conversations staff have with relatives about the role they can play in the child’s life?
  - Has notice been written in plain language, easily understood by the general population, available in other languages, and provided with any necessary accommodations for the deaf population, or for those with visual impairments or in need of an interpreter?
  - The Program Instruction encourages the notice to be in writing.

- How does your state approach the family or domestic violence exception to notice?
  - Who will be making these family violence exception determinations (e.g., judge, attorney, the department, caseworker, etc.)?
  - What are the criteria and documentation requirements, if any, for the family or domestic violence exception?
  - How does your state take into consideration the court or state’s belief that notice may be dangerous to the family or child?
    - If notice would not be in the best interest of the child due to past or current family or domestic violence; or
    - If notice would put the child or parent at risk of physical, mental, or emotional abuse.
  - Please note, the exception may be decided on a case-by-case basis, and then the state is relieved of their diligent efforts to notify those specific relatives only.
  - Federal law does not allow the state to create “other exceptions” to the notice requirement, including parental objection to notice. The only exception is family or domestic violence.

- What are the various placement options available in your jurisdiction to relatives, both informal and formal? See Section 104: Allowing Waivers for Non-Safety Licensing Standards for Relatives.
- Has the agency explored ways to keep the relative connected with the child if they are not a placement option?
  - This could include participation in family group decision making conferences, in the
child’s school or extracurricular activities, or providing a home for holidays or weekend visits.
  o Continue notifying relatives for all hearings after the initial and jurisdictional/ dispositional hearings.

Questions to Ask from the Bench

- Which relatives have been identified? Have they all been notified? If not, why not?
- How has the agency exercised “due diligence” to identify and notify all relatives (ask at the first hearing and all subsequent hearings, when appropriate)?
  o Has the agency used a combination of good casework and technological resources?
  o Have both paternal and maternal relatives been identified and notified?
  o Has the agency asked the child to identify who is important in his or her life?
- Ask parents and the child, in a developmentally appropriate manner, to identify relatives and possible placement and family resources. Judges should speak directly to parents on the record about:
  o What efforts have been made to ensure that parent/s understand the possible benefits to the child if the child is placed with people he or she knows and of continued contact (even if not placed) with people who are important to him or her?
  o What efforts have been made to ensure that parent(s) know that their child/ren may be placed with people they don’t know if the agency cannot locate a suitable relative placement?
- Which relatives have come forward as resources for the child? How would they like to be involved?
- What is the agency doing to follow up on each of these relative resources?
- Is the agency making plans to license the relative/s that are seeking placement?
  o If relatives who have been identified don’t qualify for licensing, has the agency considered licensing waivers?
- Has the child been asked what his/her placement preference is?
- Are there family or domestic violence issues that warrant making an exception to the identification and notice requirements?
- What efforts have been made to ensure that the relative understands the various placement options available to them?
  o What efforts have been made to ensure they understand the options that may be lost by failing to respond to the notice?
  o What efforts have been made to ensure the relative caregivers and the family (parents and child) understand the role of the relative in the process?
  o How were family members made aware of ways that they may stay connected with the child and engaged in the child’s case, even if they are not a viable placement option for the child?
- What efforts have been made to ensure that relatives understand the support and services available to them under the various placement options?
- Have the efforts to indentify and notify relatives been documented in the court reports?
Section 104: Allowing Waivers for Non-Safety Licensing Standards for Relatives

Overview
Fostering Connections allows states to waive non-safety licensing standards for relatives on a case-by-case basis in order to eliminate barriers to placing children safely with relatives in licensed foster homes. These standards may include requirements such as mandatory square footage and minimum numbers of bedrooms or bathrooms per person. It also required HHS to submit a report to Congress by October 7, 2010 that examines state licensing standards, states’ use of case-by-case waivers, and the effect of these waivers on children in foster care. The report must also review the reasons relative foster family homes may not be able to be licensed, and must recommend administrative or legislative actions to allow more children to be safely placed in relative foster homes and be eligible for federal support. As of the writing of this document, the report has not been made publicly available.

Generally, when a child is placed in the custody of a state’s child welfare agency, that child must be placed in some form of licensed foster home to receive federal reimbursement under Title IV-E. Licensing requirements and terminology differ from state to state. States have discretion to establish licensing standards and define which standards are considered safety related and which are non-safety related. For a 50 state and the District of Columbia compilation of data on current state waiver laws and policies, please visit www.grandfamilies.org. See also Relative Foster Care Licensing Waivers in the States: Policies and Possibilities for an overview of current waiver policies in the states.

Judicial Considerations
- What are your state’s licensing requirements?
  - Please note that licensing policy may be found in statute, administrative codes and policies.
- What is your state’s policy on waivers of licensing requirements?
- What is the state’s philosophy and practice regarding licensing relatives as foster parents?
  - Does policy differ from actual practice? If so, how?
- Which licensing standards are considered safety-related? Non safety-related?
- What are the common reasons why relatives are not licensed?
  - What assistance is available to help relatives who are denied licensing?
- Are waivers applied equitably?
  - What is the procedure for decision making regarding waivers?

Questions to Ask from the Bench
- Have relatives come forward and/or been identified as placement resources for this child? Have they been licensed?
- What barriers, if any, are there to licensing a relative placement for this child?
- Have waivers been considered in this case to enable safe placement with a relative? If not, why not?
- Does the relative need assistance in advocating for placement?
Title II: Improving Outcomes for Children in Foster Care
Section 201: State Option for Children after Attaining Age 18

Overview
Prior to Fostering Connections a number of states provided some measure of services and supports to young adults in foster care beyond age 18 using state or local dollars or Federal dollars provided to states under the Chafee Program. Under Fostering Connections, states have the option to elect to provide federal Title IV-E support for eligible youth and young adults in foster care and those who exit to adoption or guardianship at age 16 or older up to 19, 20, or 21 years old provided the youth/young adult is:

1. Completing high school or its equivalent;
2. Enrolled in post-secondary or vocational training;
3. Participating in a program to promote or remove barriers to employment;
4. Employed 80 hours/month; or
5. Incapable of doing any of the activities described in 1 through 4 due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

Judges should provide judicial leadership to get their state to opt in. If a state decides to extend foster care for young adults beyond age 18 as part of their Title IV-E state plan, all of the requirements and protections of Title IV-E apply to these young adults in foster care, including court oversight. This includes ASFA requirements such as holding a permanency review hearing at least once every 12 months conducted by a court. Also required every 12 months is a judicial finding, reflected in the court order, pertaining to whether the agency made reasonable efforts to finalize the permanency goal. In addition, under ASFA the youth or young adult’s case plan must be reviewed by a court or administrative body at least once every six months.

Additionally, effective October 1, 2010, for youth who have attained 18 years of age “a supervised setting in which the individual is living independently” will also be considered a Title IV-E eligible placement. A title IV-E agency has the discretion to develop a range of supervised independent living settings. For example, supervised settings may include host homes, college dormitories, shared housing, semi-supervised apartments, supervised apartments or another housing arrangement when paired with a supervising agency or supervising worker. See: Program Instruction, ACYF-CB-PI-10-11 for examples of a supervised setting.

As previously stated, prior to Fostering Connections, some states were already using state and local funds as well as some federal funds provided to states under the Chafee Program to extend support past the age of majority for young adults in foster care or those eligible for adoption assistance or subsidized guardianship assistance payments. There is nothing in Fostering Connections that prohibits states from continuing these programs and using their own funds to extend assistance for those youth/young adults who are not Title IV-E eligible and cannot qualify for continued federal assistance. However, states that currently allow youth to
stay in care past age 18 and now extend care under Fostering Connections may see cost savings because of the availability of federal Title IV-E funds, which used to stop when the child reached age 18.

Under Fostering Connections, federal support for young adults beyond age 18 is only available when the young adult is participating in one of the activities listed above and is otherwise IV-E eligible. To provide more young adults with support, some states may continue or begin to provide support for young adults age 18 or older who are not IV-E eligible, or do not qualify for another reason under the federal requirements through a state or locally funded program or for Chafee Program activities. For states that extend support and services under Fostering Connections, it is important to be aware of the differences between services and supports available, if any, as well as the differing eligibility requirements of any state programs including Chafee or aftercare support.

See: Sample State Legislation to Extend Foster Care, Adoption and Guardianship Protections, Services and Payments to Young Adults Age 18 and Older.

**Judicial Considerations**

- Has your state taken the option to extend care beyond age 18?
- Are young adults continuing to benefit from all protections they are entitled to under Title IV-E?
- Are federally required hearings being held for all children in foster care including those over 18?
  - Court jurisdiction must be extended past the age of majority and some states may need to amend state law to allow this.
- Is the court making the required judicial determinations of the agency’s reasonable efforts to finalize a permanency plan?
  - Are reasonable efforts being made toward the youth’s permanency plan?
  - Is the court checking that when APPLA is chosen as a permanency plan that *compelling reasons* are documented as to why each of the other preferred permanency plans are not appropriate for the individual youth?
  - Do these reasonable efforts for youth with permanency plans of APPLA, based on a documented *compelling* reason, include activities outlined in a youth’s transition plan and/or case plan?
    - For more information, see below - Section 202: Transition Plan for Children Aging out of Foster Care.
  - Do these reasonable efforts contain planning for a successful transition to adulthood which includes efforts to establish permanent adult connections and permanency?
- Is the youth present and meaningfully engaged in all court proceedings and encouraged to participate?
  - Is the judge consulting with the youth in an age appropriate manner as required by law?
    - 42 U.S.C. § 675(5)(C) requires that “procedural safeguards are to be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from
foster care to independent living, the court consults, in an age appropriate manner, with the child regarding the proposed permanency or transition plan for the child.”

○ Fostering Connections requires that youth play an active role in planning for their present and future. See the next section of Fostering Connections, 202 - Transition Plan for Children Aging Out of Foster Care.
  ▪ Did the youth help develop and is in agreement with their own case plan?

○ Is the youth notified and present at court hearings?
  ▪ Court orders should document if the youth is present or not and if not, why not and what assistance, such as transportation, should be provided by stakeholder parties to enable future attendance if the youth so desires.
  ▪ Timing of hearings should not conflict with the youth’s school schedule.
  ▪ Final hearings should not occur without the youth present.

○ Are hearings held under conditions that facilitate and support active and meaningful engagement of the youth in key decisions?
  ▪ Are questions addressed directly to the youth/young adult to encourage his/her participation?
  ▪ Do hearings provide ample time and opportunity for the youth to discuss his/her transition and permanency plan?
  ▪ Are case plans developed jointly with the youth/young adult and does this planning include discussions that reflect agreements made between the agency and the youth/young adult to obtain independent living skills and the benchmarks that indicate a successful transition?

○ What rights do young adults who have attained 18 years of age have as compared to youth in care younger than 18? In particular, are young adults represented in court by a client-directed attorney?

• What are the processes by which care and jurisdiction of young adults in care beyond age 18 may be terminated?
  ○ What is the process if the young adult wishes to exit care?
  ○ In what circumstances can the state terminate care and jurisdiction?
  ○ Under what circumstances can a youth re-enter care after age 18 and what is the process for trial independence or re-entry under each?
  ○ What information has been provided to the youth regarding any services and supports that may be available as well as any opportunities that exist to re-enter care?

• Where appropriate, the court should consider holding additional hearings or (if possible) extending care until the court is satisfied that:
  ○ The youth has been adequately notified of the opportunity to remain in care or receive other services and supports;
  ○ The youth is knowingly consenting to the termination of the case; and
  ○ The agency and youth have made progress towards the goals of the transition plan (See Section 202) and that adequate supports and services are in place to assure the youth/young adult’s successful transition to adulthood.
For states that have extended care beyond age 18, do all youth have legal representation? Is that attorney acting as a client-directed counsel as opposed to a best interest attorney?

**Questions to Ask from the Bench**

- **Ask the agency:**
  - Is the youth/young adult present? If not, why not? How and when was the youth/young adult notified of the hearing?
  - How has the youth/young adult been made aware of the state’s policies regarding extended care, if applicable?
  - How has the youth been made aware of the services available, if applicable, if he or she remains in care versus the services if he or she chooses to exit care?
  - What specific services and supports has the youth/young adult been offered?
  - If the young adult plans to remain in care, what are the plans for ensuring the young adult remains eligible for continued care?
  - What steps have been taken to ensure that the youth understands the consequences if they choose to exit care and understands the process, if applicable, for returning to care?
    - What services and supports does the young adult remain eligible for if he or she chooses to leave care?
    - What services and supports will the youth/young adult lose if he or she chooses to leave care?
    - If applicable, what is the process and timeframe for re-entering care?
  - What are your plans for ensuring permanency?

- **Ask the youth/young adult:**
  - How were you prepared for this court hearing? By whom?
    - Do you have a lawyer? Have you seen him or her?
  - How were you actively engaged in developing your transition plan? (See Section 202).
  - What is the state’s proposed permanency plan for you? Do you agree with this plan? If not, what is your desired permanency plan and why?
  - If the state extends care beyond age 18:
    - Do you understand that you have the option to continue receiving services and support after you turn 18? What are your plans?
    - Do you understand the consequences if you choose to exit care as well as any services and supports that may be available to you?
    - What information has been provided to you regarding any opportunities that exist to re-enter care?
    - If the young adult plans to remain in care, what are your plans to participate in one of the required activities? Will you be going to school? Working? Participating in a job training or treatment program?
Section 202: Transition Plan for Children Aging out of Foster Care

Overview
Fostering Connections requires a personal transition plan for youth/young adults be in place within 90 days prior to their 18th birthday or whatever later age as the state may elect under section 201 of Fostering Connections. This does not replace the previously required independent living plan “for youth ages 16 and older” under ASFA at 42 U.S.C. § 675 (1)(D) or the case review documentation for youth age 16 and above of “the services needed to assist the child to make the transition from foster care to independent living” at 42 U.S.C. § 675(5). Instead, this plan complements these plans.

Further, the transition plan is not the same as the ASFA permanency plan, which focuses on the permanency goal and efforts being made to achieve permanency. The transition plan is a more detailed plan about the youth/young adult’s future goals and objectives. It is important to also note that this newly required transition plan does not preclude the state from beginning transition and life planning discussions at an earlier age rather than waiting until three months before the age of 18; indeed such early planning is preferable and required as part of the ASFA independent living plan. The transition plan serves as a final check to ensure that the youth/young adult is prepared for the transition to adulthood.

Finally, the plan must be as detailed as the youth/young adult chooses and include specific plans for housing, health insurance, education, local opportunities for mentoring, continuing support services, health care power of attorney or proxy, work force supports, and employment services. If the youth has special health, behavioral health or intellectual needs, the child welfare agency should assist the youth in engaging needed adult-service systems to ensure that appropriate linkages are made in terms of provision of services and benefits. An agency caseworker, and, as appropriate, other appropriate representatives of the youth/young adult, including, but not limited to, the youth’s attorney, CASA, and/or mentor, must provide the youth/young adult with assistance and support in developing the transition plan.

Judicial Considerations
- The Program Instruction clearly emphasizes that the courts can play an important role in monitoring the development of the transition plan.
- The transition plan should build on the independent living plan developed by at least age 16.
- Although not specifically required by Fostering Connections, it is recommended practice that the court hold a hearing with the youth present after completion of the transition plan or at least 90 days before the youth’s/young adult’s exit from care to:
  - assure that the youth/young adult participated fully in the development of the transition plan; and
  - ensure that the services and supports identified in the transition plan are available and adequate to assure the young adult’s successful transition to adulthood.
Questions regarding the transition plan should also be directed to both the staff of the agency, to the youth/young adult and his or her counsel.

Where appropriate, the court should consider holding additional hearings or (if possible) extending care until the court is satisfied that progress towards the goals of the transition plan is sufficient and that adequate supports and services are in place to assure the youth/young adult’s successful transition to adulthood.

Questions to Ask from the Bench

Ask the agency:

- When did the independent living planning and transition planning begin?
- How was the youth/young adult involved in the development of the plan? If he or she was not involved, why not? How will he or she participate in transition planning in the future?
- Does the youth/young adult qualify, starting in 2014, for the extension of Medicaid coverage to age 26 for all youth who were in foster care on their 18th birthday (or a higher age) and have aged out (under the Patient Protection and Affordable Care Act - P.L. 111-148)?
  - Note: under previous law, states could extend coverage to age 21 at their option.
- Has the youth/young adult received comprehensive sexual education, counseling and health care to prevent unintended pregnancy and sexually transmitted infections?
- If the youth/young adult is pregnant or parenting, what appropriate housing, medical, child care, and educational services are in place to help the youth care for the child?
- What behavioral health, mental health, developmental health, reproductive health services, drug/alcohol or medical services are in place for the young adult if continued services are needed?
  - Is the youth/young adult taking any prescription medication, and if so, what is the transition plan for this?
- If the youth is not able to make his or her health care and other legal decisions as an adult due to an intellectual or other disability, have legal proceedings been initiated to ensure that a legal decision-maker is in place?
  - Does a new attorney or GAL need to be appointed?
- What supports are in place to assist the youth/young adult with continued educational success in high school, post-secondary education (college) or vocational training?
- What services has the young adult received to prepare for and apply to post-secondary education or training, including assistance with financial aid applications?

Ask the youth/young adult:

- Were you consulted and how were you able to meaningfully participate in the development of your transition plan?
- Do you believe that your transition plan will support your successful transition to adulthood?
  - Is there anything you think needs to be added to your plan to assist you better?
  - What do you like most about your transition plan? What do you like least?
- Do you feel you are able to obtain, understand, and act on health information and make appropriate health decisions (health literacy)?
  - Who are your current doctors and dentist?
  - Do you know whether you can continue with these doctors and dentists after foster care terminates? If not, do you have a plan for accessing health care?

- Do you have an understanding about the importance of having a health care power of attorney or health care proxy to make health care decisions on your behalf if you are unable to do so?
  - Who, if anyone, at the agency has talked to you about this?
  - Have you identified a person to be your health care proxy?

- What do you know about the process for reapplying for Medicaid, if necessary?
  - Can you identify a supportive adult to help you with this process?

- Where are you going to live when you leave foster care?
  - Where do you live now? Are you going to live there after your case closes?
  - If not, where are you going to live?
  - Do you have information and have a general understanding of landlord/tenant rights? Do you know where to go to get that information if you need it?

- What else do you think you need to assist you in transitioning to adulthood and out of foster care?

Ask either the agency or the youth/young adult (preferably engage the youth/young adult):
- Who are his or her permanent connections? Who are the stable adults the young adult is able to identify as resources he or she can rely on for advice and in emergencies?
- What is the plan for the youth/young adult to remain connected to siblings and other relatives?
- What is the source of current and future income including job, training, educational program, disability benefits, etc. after the case closes? If the youth is working, where is he or she working?
- What is the youth's/young adult’s current educational status?
  - What is the youth/young adult’s plan for post-secondary education or training?
  - What supports are in place to assist the youth/young adult with continued educational success?
- What assistance has the youth/young adult received to prepare for and apply to post-secondary education or training, including assistance with financial aid applications?
  - Has the youth/young adult accessed Chafee services and Education and Training Vouchers (ETVs)?
  - Is the youth/young adult eligible for other scholarships or financial assistance programs targeted at youth in foster care including available state tuition assistance programs?
- Does the youth/young adult have a medical home or a regular medical care provider?
- Does the youth/young adult have access to his or her medical records or health passport, if one has been kept?
- Does the youth/young adult have a dental home or a regular dental care provider?
- What will be the source of their future health insurance coverage?
Overview
Fostering Connections recognizes and supports the importance of well-trained stakeholders to a child’s permanency, safety, and well-being by making Title IV-E training dollars available to cover training of staff of public agencies, as well as judges, court personnel, attorneys, GAL, CASA and staff of private agencies serving children and families. Title IV-E training dollars can also be used to train prospective relative guardians in addition to foster and adoptive parents. Funding for this new training will be phased in over 5 years, up to 75% federal reimbursement in FY 2013. The federal government will pay 65% in FY2011 and 70% in FY 2012.

Judicial Considerations
- Has the court identified any specific training needs and necessary resource materials for the education and training of dependency system professionals?
- Has the court developed or contracted for training curricula and/or collaborated on providing training for lawyers, volunteer GAL/CASAs, court personnel, relative caregivers and private agency staff?
  - Has the court conducted any such training?
- Has the court encouraged cross training between the judiciary and other professionals?
- How has the state planned for the use of training dollars for these training purposes?
  - Can the training dollars be combined with other resources, such as Court Improvement Project funding, or other court training projects and initiatives, such as Model Courts project, to develop needed or more comprehensive trainings?
  - Please note, in order to claim these Title IV-E Funds, courts should enter an inter-agency agreement with the state child welfare agency to recognize training expenses by the court for allowable training.
- Has the state child welfare agency amended its Public Assistance Cost Allocation Plan (PACAP), if deemed necessary, to indicate that it will be expanding its IV-E short term training plan to include these additional categories of trainees as allowed under Fostering Connections? See: ACYF-CB-PI-10-07

Section 203: Short-Term Training for Child Welfare Agencies, Relative Guardians and Court Personnel

- Does the youth/young adult have the legal documents that he/she needs, such as birth certificate, social security card, driver’s license or state ID, Special Immigration Juvenile Status, if appropriate?
- Does the youth/young adult have an understanding of the basic governmental, community and housing services available to him or her after the case closes?
- How will the youth/young adult secure appropriate housing, so that he or she does not become homeless?
- What aftercare services will be provided by the state?
- What else does the youth need assistance with?
Section 204: Educational Stability

Overview
Federal law has long required that a child be placed within reasonable proximity of the child’s home and that proximity to the child’s school be considered when making all placement decisions. Fostering Connections took the additional step to require that both proximity and appropriateness of the educational setting be considered when making all placement decisions. Fostering Connections also requires child welfare agencies to coordinate with local education agencies to ensure that children remain in the same school at the time of placement, unless it would not be in their best interest to remain in the same school. If it is not in the child’s best interest to remain in the school at the time of placement, the state must ensure immediate enrollment in a new school with all of the educational records of the child provided to that new school.

Fostering Connections also allows for some federal reimbursement for Title IV-E eligible school-age children for the cost of reasonable transportation so the child can remain in the school in which he or she is enrolled at the time of placement under the definition of foster care maintenance payment. States were previously (and continue to be) able to receive some federal reimbursement for school transportation, as well as transportation for parents, foster parents, or children to school meetings or extracurricular events, as an administrative cost.

Finally, states are now required under Fostering Connections to ensure all Title IV-E eligible children in foster care, or receiving kinship guardianship or adoption assistance payments, are full-time students or have completed secondary school.

Judicial Considerations
- The Program Instruction clearly emphasizes the courts important role in educational stability.
- Is the court asking about educational stability, as part of each child’s individual child welfare case plan, at the initial removal hearing, and at other subsequent permanency review hearings?
  - Is the court specifically asking questions to address:
    - educational stability for the child;
    - how to keep the child in his or her current school;
    - who will provide transportation to help the child remain in that school, if necessary?
  - Is the court making a best interest determination, ensuring the child is immediately enrolling in a new school, if not in his or her best interest to remain in his or her previous school, and monitoring the child’s ongoing educational progress?
• Is the court considering the rights afforded children in foster care under the federal McKinney-Vento Act; the overlap between McKinney-Vento and Fostering Connections; and the different obligations of the education and child welfare agencies?
  o Interagency collaboration between McKinney-Vento State Coordinators, local Offices of Education, local school liaisons and the child welfare system is critical to effective implementation of both laws.
  o See: Legal Center for Foster Care and Education fact sheet on the overlap of these two laws - How Fostering Connections and McKinney-Vento Can Support School Success for all Children in Out-of-Home Care

• Is the court monitoring a child’s ongoing school attendance and participation, especially in light of the new requirement that state child welfare agencies must include an assurance in their Title IV-E State Plan that all Title IV-E eligible children in foster care (of minimum compulsory school age) are enrolled in and attending school?
  o Courts should require child welfare agencies, and other appropriate parties to a case, to report on the child’s ongoing school attendance and participation.
  o Courts should also consider working with the child welfare and education agencies to develop a system to share information to ensure and track school enrollment and attendance, as well as other critical data to evaluate student’s stability, continuity and educational progress.

• Is the court taking a leadership role in ensuring collaboration between the state education agency, child welfare agency, local school districts and possibly other systems?
  o Judicial leadership around this issue is critical, and judges play a key role as conveners of multiple systems, in a broader context of system reform.
  o Consider adding education issues to the scope of an existing, or forming a new, interagency workgroup or committee and strategize how child welfare, education and other systems can effectively collaborate to ensure school stability and continuity and increase graduation rates and/or high school completion.
  o Consider having that interagency group develop policies, protocols or agreements outlining the agreed upon process for making best interest determinations (including factors to consider and individuals to involve), expedited enrollment procedures, record transfer processes, and identifying education decisionmakers.
  o School districts are generally willing to help when collaboratives are formed. Grant opportunities often have a better chance with multiple stakeholders.

• The court’s specific authority over the education agency may vary by state or jurisdiction, and impact whether the court can order the education agency to comply.
  o Regardless of the court’s authority over the schools, in all cases judges can grant motions by parties to the case to request that the education agency or local school district representative appear to respond to questions or provide information to the court.
Questions to Ask from the Bench

- Is the child enrolled in and regularly attending school?
  - If not, order a party to the case to immediately enroll the child.
- Is the school the child is attending appropriate to meet the child’s education needs?
  - If not, appoint someone to immediately advocate for assessments or appropriate services for the child.
- When a change in living placement is occurring, has the proximity to the child’s current school been considered when identifying the new living placement?
  - If not, order the agency to consider and document proximity to school.
- When a change in living placement has occurred, did the child stay in the same school?
  - Was it determined to not be in his or her best interest to stay? If not, why not?
  - Are there efforts being made to either keep him or her in the same school or return him or her to that school?
  - What are the barriers to making that happen, if any?
- Has transportation been arranged and provided? If the child is placed outside of the school district’s boundaries, is the child welfare agency taking ultimate responsibility to ensure needed transportation is provided (either alone or in collaboration with the education agency)?
- If it is not in the child’s best interest to stay in the same school, why not and who made that determination? Are all parties in agreement? Was the youth’s perspective included in the decision?
- Was the child immediately enrolled in new school, if not in his/her best interest to stay?
  - Have his/her records been transferred? How quickly were the records transferred?
  - If not enrolled immediately or records not transferred, order an individual to take immediate action.
  - Who has spoken to the school about the trauma that the child may be experiencing by separation from his/her family?
- Does anything else need to be ordered to ensure school stability for this child?
- Has the parent consented to the release of the child’s education records to the child welfare agency and other advocates in the case?
  - Does the court need to issue an order to allow the school to release these records to any necessary individuals including the child’s attorney or GAL and the child welfare agency?
  - See: Mythbusting: Breaking Down Confidentiality and Decision-Making Barriers to Meet the Education Needs of Children in Foster Care or Q & A: Information Sharing to Improve Educational Outcomes for Children in Out-of-Home Care
- Is there a specific individual identified who will take the lead to ensure school stability and all necessary education services and supports (including ensuring credit calculations and graduation requirements are addressed), or does someone need to be identified?
- Who is the child’s education decision maker for general and/or special education?
  - If no one is identified, does one need to be identified or appointed?
  - Are all IEPs and 504 plans current?
  - For more information about the role of the judge in making special education decisionmaker appointments, see: Special Education Decision Making: Role of the Judge.
Section 205: Health Coordination and Oversight Plan

Overview
Fostering Connections requires states to develop a state plan for the ongoing oversight and coordination of health care services for all children in foster care. The health plan must be developed in coordination and collaboration with the state Medicaid agency and in consultation with pediatricians and other experts in health care and child welfare. The plan must ensure a coordinated strategy to identify and respond to the physical, mental, reproductive health and dental health needs of all children in foster care.

Specifically, the plan must:
1. provide a schedule for initial and follow-up health screenings,
2. describe how identified health needs will be monitored and treated,
3. describe how medical information will be updated and appropriately shared with providers,
4. detail the steps that are or will be taken to ensure continuity of health care services, including the possibility of establishing a medical home for every child in care,
5. include what will be done to ensure ongoing oversight of prescription medications, including psychotropic drugs, and
6. describe how the state actively consults with and involves appropriate professionals in the assessment and provision of appropriate medical care for children in foster care.

See: the American Academy of Pediatrics' Bright Futures guidelines at www.brightfutures.aap.org, generally regarded as the standard for evidence-based pediatric services; the tools and resources available from AAP’s Healthy Foster Care America at http://www.aap.org/fostercare/; the Healthy Beginnings, Healthy Futures: A Judge’s Guide and Health for Teens in Care: A Judge’s Guide.

Judicial Considerations
- The Program Instruction states that the courts can play an important role in health oversight and coordination.
- The state-coordinated health care plan should include the 6 bullets listed above with emphasis on:
  - Proper physical, mental, reproductive health and dental health services for every child,
  - Initial and follow-up health screenings for every child,
  - Coordination and continuity of medical care for every child, and
  - Ongoing oversight of prescription and psychotropic medications.
- Courts can act as powerful and effective conveners of multiple systems to communicate, coordinate, and collaborate with regard to the health plan.
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**Section 206: Sibling Placement**

**Overview**
Fostering Connections helps promote permanent family connections for children by requiring states to make reasonable efforts to place siblings in the same foster, kinship, or adoptive homes, unless contrary to the safety or well-being of any of the siblings. If siblings are not placed together, the state must document why and make reasonable efforts to provide frequent...

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### Questions to Ask from the Bench

- Although the health plan is not required by Fostering Connections to be done on an individual level for each child, the court should inquire how the child’s health care needs are being coordinated.
  - Who is the point of contact for questions and problem-solving?
  - If necessary, a judge can request a meeting to coordinate the provision of health services or order the provision of specific services related to a child’s physical, dental, reproductive health or mental health.
- What steps have been taken to ensure continuity of health care services, including establishment of a medical home for the child?
  - What are the barriers to establishing a medical home?
  - Does the child have a dental home?
  - Does the child receive routine dental care services?
- Has the child received all necessary health screens and assessments? If so, when?
- Has the child received a comprehensive physical assessment? If so, when?
- Has the child received developmental, mental health, and substance use screenings? If so, when?
- What issues or problems were identified in these screening and assessments, if any? How will these issues or problems be addressed?
- Is the child receiving all evidence-informed preventive health services and screenings (based on the age of the child), including oral and vision care, reproductive health, and HPV vaccinations?
- Are the child’s immunizations up to date?
- Does the child have a health passport?
  - Is all medical information regularly updated and shared with appropriate providers?
- Have there been regular assessments of prescription medication, including psychotropic drugs?
- How often does the child see a doctor and what is the overall quality of the health care the child is receiving?
  - How is that quality being assessed?
  - Does the child like his or her doctor? Why or why not? (Ask the child if present)
- Is the child receiving age-appropriate reproductive health information and services?
- Has the agency complied with the health care plan? If not, what action will be taken to correct the compliance problem and what is the timeframe to reaching compliance?
visitation or other ongoing interaction between the siblings, unless this interaction would be contrary to a sibling’s safety or well-being.

Judicial Considerations

- The Program Instruction clearly emphasizes that the courts can play an important role in sibling placement and sibling visitation.
- How does your state define sibling?
  - The Program Instruction allows states to define siblings.
- Does your state agency encourage the maintenance of relationships with siblings not in care? How?
- How is the court encouraging participation in hearings to discuss sibling issues?
- Is a periodic review being conducted to determine whether there has been a change in circumstances that would allow siblings to be placed together?
  - The Program Instruction encourages periodic assessment of placement and visitation.
- Are sibling visits dependent on parental visits?
  - If so the court should require a separate visitation plan for siblings which is not dependent on parental visits.
- Does your state actively recruit resource parents who are willing to take in sibling groups with children of varying ages?
- How is “contrary to the safety or well-being” of siblings being defined? Who should make such determinations?
  - Children should not be separated unless a court finds that placement together is contrary to a sibling’s safety and well-being.

Questions to Ask from the Bench

- Does this child have siblings?
- Does the agency know the location of all siblings?
- Are the siblings placed together?
- Has the agency or court consulted with the child and determined the child’s wishes with regard to sibling placement and visitation?
- If a child is not placed with siblings, why are they separated?
  - What is the necessary documentation of reasons for separation?
  - What is the agency’s plan for finding a placement that would allow the siblings to be placed together?
  - Have the circumstances changed that would allow for placement with siblings?
- What “reasonable efforts” were made to keep siblings together, and if so what were they?
  - Reasonable efforts may include referrals to family group decision making and family finding or targeted foster parent recruitment to locate sibling friendly placements.
Overview – Section 301

Until passage of Fostering Connections, Indian tribes did not have the option of accessing Title IV-E funds directly in order to administer their own foster care or adoption assistance programs. In the past Tribes have had to enter into state tribal agreements with state Title IV-E programs and comply with all state and federal requirements in order to obtain Title IV-E funds for children in tribal care. Fewer than 100 tribes have had access to Title IV-E funds through such agreements. Further, the Title IV-E agency is expected to negotiate these agreements in good faith with all parties given the opportunity to contribute to the agreement. Under Fostering Connections, tribes may now directly access Title IV-E funds for local tribal foster care, guardianship assistance and adoption assistance programs.

Fostering Connections encourages tribal-state collaboration and allows states and tribes to continue to operate or create Tribal/State agreements to administer the IV-E program and, for the first time, allows tribes or tribal consortia to directly access funds from the federal government and administer the Title IV-E funds for children in the tribe’s care. Tribes who directly contract with the federal government for Title IV-E funds will have to set up their own programs, standards, rules, and policies that will have to be consistent with federal
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requirements. These tribal programs and policies will permit tribes more flexibility on important cultural issues, such as: licensing standards for foster families, how to define “aggravated circumstances” and “compelling reasons”, not including termination of parental rights as a dependency outcome, and the use of permanent and subsidized guardianships as a permanency outcome rather than adoption. Fostering Connections also allows tribes to access a portion of the state’s Chafee Foster Care Independence Program (CFCIP) funds and requires the tribe to provide independent living services for tribal youth in the state.

Additionally, nunc pro tunc tribal court orders to document reasonable efforts and contrary to the welfare findings are allowed, if previous orders did not include these findings. These orders are allowed for the first 12 months that a tribe, tribal organization or tribal consortium operates a IV-E funded program under this Act in order to access Title IV-E funding for children who are already placed in care.

Overview – Section 302
To support this initiative, Fostering Connections requires the Secretary of the Department of Health and Human Services to provide technical assistance and implementation services dedicated to improving services and permanency outcomes for Native American children. One time grants of up to $300,000 will be available to tribes that apply for funding to assist in the developing and the transition to administering their own tribal Title IV-E program directly. See: Technical assistance document to assist tribes implement a direct title IV-E program.

For a list of tribes that have been awarded development grants to date see: http://www.acf.hhs.gov/programs/cb/programs_fund/discretionary/2009.htm and http://www.acf.hhs.gov/programs/cb/programs_fund/discretionary/2010.htm

Judicial Considerations
- Is a nunc pro tunc order needed to document reasonable efforts and contrary to the welfare findings?
  - This is allowed only for the first 12 months that the Title IV-E funded program is in effect, if such finding was not previously made by the court.
  - Fostering Connections requires such documentation to determine child and case eligibility for Title IV-E reimbursement.
- Have any tribes, tribal organizations or consortia in your jurisdiction applied to administer their own Title IV-E program?
Title IV: Improvement of Incentives for Adoption

Section 401: Adoption Incentives Program

Overview
Fostering Connections enhances incentives available under previous law to promote the adoption of children from foster care. It renews the Adoption Incentive Grant Program for an additional five years; resets the adoption baseline on which adoption incentives are based to the number of adoptions in FY 2007; doubles the incentive payments for adoptions of children with special needs and older children adoptions; and gives states 24 months, rather than the previous 12 months, to use their adoption incentive payments.

Fostering Connections also permits states to receive an additional payment if the state’s adoption rate exceeds its highest recorded foster child adoption rate since 2002.

Judicial Considerations
- Does the court regularly inquire about the agency’s adoptive parent recruitment efforts and assist in those efforts as appropriate through follow-up hearings and convening meetings to develop communication, coordination, and collaboration?
- What are the average timelines for completing adoptions in your jurisdiction?
- How does the court work with stakeholders to expedite backlogs and appeals for adoption cases?
- How frequently does the court conduct reviews of children whose parental rights have been terminated to speed adoption finalization?
- How does the court encourage adoptions of older youth and children with special needs for whom reunification is not appropriate?
  - Examine closely the reasonable efforts taken to achieve permanency for older youth and special needs children.
- How does the court discourage and examine closely the use of APPLA as a permanency goal?
  - Under federal law, the court must ensure that when APPLA is chosen as a permanency plan that compelling reasons are documented as to why each of the other preferred permanency plans (reunification, adoption, guardianship, ...
placement with a fit and willing relative) are not appropriate for the youth.
  o At each hearing, re-examine the APPLA goal to ensure that it is still the most
    appropriate goal and that compelling reasons still exist as to why each of the
    other permanency options are not appropriate.
  o If permanency is not appropriately being pursued by the agency make a “no
    reasonable efforts” finding.

- Does the court encourage the explanation/benefits of adoption to the child, including
  older youth?

Questions to Ask from the Bench
- What efforts has the agency made to find an adoptive placement for this child?
- Has the agency asked the child who is important to them and engaged in child-specific
  recruitment efforts and/or intensive family finding to identify potential resources for the
  child?
- What is the concurrent plan for the child? What efforts have been made to achieve the
  permanency plans?
- If the child is an older child what efforts has the agency made to explain adoption and
  its benefits to the child?
- If adoption is the permanency goal, what is the expected timeline for finalization and
  what steps are being taken to reach that goal?
- What are the barriers to finalizing an adoption?
  o Who has the ability to remove the barriers to adoption?
  o When will those barriers be removed?

Section 402: Promotion of Adoption of Children with Special Needs

Overview
Fostering Connections gradually increases the number of children with special needs who can
be adopted with federal adoption subsidy support by eliminating the income eligibility
requirement over time. Fostering Connections “de-links” a child’s eligibility for federal adoption
assistance payments from outdated Aid to Families with Dependent Children (AFDC) income
requirements, as previously required under Title IV–E. In addition, children who are eligible for
Supplemental Security Income (SSI), based solely on its medical and disability requirements,
would automatically be considered children with special needs and eligible for adoption
assistance without regard to the SSI income requirements.

Fostering Connections requires that savings resulting from these new Title IV-E eligibility rules
must be invested in services (including post-adoption services) provided under Parts B and E
of Title IV. The expansion of children eligible for federal adoption assistance payments will be
phased in over nine years, with older children and those who have spent at least 60
consecutive months in care being eligible first. If a child is Title IV-E eligible, the entire sibling
group will also be Title IV-E eligible when placed together, regardless of age or length of time
in care. Each fiscal year, Fostering Connections adds a new group of eligible children by
age—16 and older on October 1, 2009, 14 and older on October 1, 2010, and so on. Starting October 1, 2017, all children with special needs, regardless of income or age, or time in care, will be eligible for federal adoption assistance.

Judicial Considerations

- Does the court regularly inquire about the agency’s adoptive parent recruitment efforts for special needs children and their siblings and assist in those efforts as appropriate?
- Does the court promote reinvestment of de-linked dollars back into areas of unmet need in the child welfare system?
- How does the court create a sense of urgency for adoption of youth who have been in care over 60 months, are eligible by phase in age (ex. 14 as of October 1, 2010), or any eligible child who has a sibling(s)?
  - The expansion of support to siblings should help keep siblings together.
- What is the concurrent plan for the child?
- If the child is an older youth, what efforts has the agency made to explain adoption and its benefits to the youth?
- If adoption is the permanency goal, what is the expected timeline for finalization and what steps are being taken to reach that goal?
- Does the court conduct frequent reviews of children whose parental rights have been terminated to speed adoption finalization?
- Does the court encourage adoptions of children with special needs and examine closely the reasonable efforts taken to achieve permanency for older youth and special needs children?
- Does the court discourage and examine closely the use of APPLA as a permanency goal?
  - Under federal law, the court must ensure that when APPLA is chosen as a permanency plan that compelling reasons are documented as to why each of the other preferred permanency plans (reunification, adoption, guardianship, placement with a fit and willing relative) are not appropriate for the youth.
  - At each hearing, re-examine the APPLA goal to ensure that it is still the most appropriate goal and that compelling reasons still exist as to why each of the other permanency options are not appropriate.
  - If permanency is not appropriately being pursued by the agency, make a “no reasonable efforts” finding.

Questions to Ask from the Bench

- Has the child been in care for greater than 60 months or is older than 16 years of age (October 1, 2009), older than 14 years of age (October 1, 2010), older than 12 years of age (October 1, 2011), etc.?
- What efforts have been made to find an adoptive home for this child?
- What are the barriers to finalizing an adoption?
  - Who has the ability to remove the barriers to adoption?
  - When will those barriers be removed?
Section 403: Adoption Tax Credit

Overview
Fostering Connections requires states to inform all prospective and adopting parents that they are potentially eligible for the adoption tax credit. In March 2010, Public Law 111-148, the Patient Protection and Affordable Care Act, extended the adoption tax credit to December 31, 2011. The Act also increased the per-child credit for 2010 from $12,170 to $13,170, and made the credit refundable for 2010 and 2011. Because the adoption tax credit will be refundable, families who have smaller tax liability will now be able to benefit from the credit for adoptions finalized in 2010 and 2011.

Judicial Considerations
- What is the process of notifying the adoptive or prospective adoptive parents of the federal adoption tax credit (IRS form 8839)?
- What efforts are made to ensure they understand the eligibility requirements?

Questions to Ask from the Bench
- Ask prior to finalization if the adoptive parent has received information about the adoption tax credit and if they have any questions about it.
Additional Resources for the Fostering Connections to Success and Increasing Adoptions Act of 2008

**General Resources**

- For summaries, full text of law and additional resources: www.grandfamilies.org
- Additional information and tools on this law available at the Fostering Connections Resource Center: www.fosteringconnections.org
- Children’s Bureau Guidance:
  - A list of key Children's Bureau policy, guidance and other implementation activities related to Fostering Connections
  - Program Instruction (PI) on the law (7/9/10): ACF-CB-PI-10-11
  - Revised Title IV-E plan pre-print that incorporates Fostering Connections
  - ACYF-CB-PI-10-07 – amended Public Assistance Cost Allocation Plan (PACAP) to expand training categories
- Extensive Kinship Q & A entitled: New Help for Children Raised by Grandparents and Other Relatives: www.grandfamilies.org
- NCJFCJ: www.ncjfcj.org
  - Resource Guidelines and Adoption and Permanency Guidelines - http://www.ncjfcj.org/content/blogcategory/266/322/
  - Text of the Fostering Connections Act with Judicial Considerations http://www.ncjfcj.org/content/view/1194/535/
- Other resources available at:
  - http://www.americanbar.org/groups/child_law.html
  - www.clasp.org
  - www.childrensdefense.org

**Kinship Provisions Resources**

- **Fostering Connections Kinship Toolkit**
  - General information about Kinship
    - New Help for Children Raised by Grandparents and Other Relatives: Questions and Answers About the Fostering Connections to Success and Increasing Adoptions Act of 2008
  - Guardianship Assistance Program Tools
    - Five Key Questions to Assess the Fiscal Impact of the Guardianship Assistance Program
    - Making the Case for the Guardianship Assistance Program
    - Myths and Facts Related to Use of the Guardianship Assistance Program
    - Sample State Legislation to Implement the Guardianship Assistance Program
    - Sample Guardianship Assistance Agreement
    - Guide to Using the Guardianship Assistance Agreement
    - Checklist for Guardianship Assistance Program
o Identification and Notice Tools
  • Sample Letter for Notice to Relatives
  • Key Considerations for Implementing Notice to Relatives
  • Checklist for Identification of and Notice to Relatives
  • Relative Foster Care Licensing Waivers in the States: Policies and Possibilities
  • Office of Child Support Enforcement Action Transmittal AT-10-12 on the use of the Federal Parent Locator Service for child welfare agencies

  • ACYF-CB-PI-10-01 - provides State Title IV-E agencies and Tribes revised instructions on how to implement and operate the Guardianship Assistance Program (GAP)

Older Youth Provisions Resources
  • Frequently Asked Questions on the Provisions Designed to Impact Youth and Young Adults: www.nationalfostercare.org
  • Sample Legislation to Extend Foster Care, Guardianship, and Adoption Assistance Protections, Services and Payments to Young Adults Age 18 and Older
  • ABA Bar-Youth Empowerment Project Bench Cards located under Legal and Judicial Resources at: http://www.abanet.org/child/empowerment/youthincourt.shtml
  o See issues and questions specific to the Youth Engagement Breakout in the Appendix, Chapter 7 - Youth Engagement and Youth Focused Systems and Chapter 2 - Courts and the Legal Process
  • Foster Club’s Transition Toolkit

Education Provision Resources
  • NCJFCJ: www.ncjfcj.org
    o Educational Checklists
  • Legal Center for Foster Care and Education
    o Q&A Factsheet: Education Provisions of the Fostering Connections Act
    o Fostering Connections State Implementation Toolkit
    o Fostering Connections and McKinney-Vento Overlap Series

Health Provision Resources
  • American Academy of Pediatrics’ Bright Futures guidelines: http://www.brightfutures.aap.org
  • American Academy of Pediatrics’ Healthy Foster Care America: http://www.aap.org/fostercare/
  • Healthy Beginnings, Healthy Futures: A Judge’s Guide
  • Health for Teens in Care: A Judge’s Guide
Adoption Provision Resources

- ACYF-CB-PI-09-10 - establishes new criteria associated with the delinking of Adoption Assistance eligibility AFDC eligibility requirements
- ACF-CB-IM-09-03 - extends the Adoption Incentive Program through FY 2013, updates the "base year" used to measure increases to FY 2007, doubles incentive payment amounts for special needs and older child adoptions and creates a "highest ever" foster child adoption rate pay
- Adoption Incentives Program Grantees 2009 - states that received 2009 Incentive Awards
- Adoption Incentives Program Grantees 2010 - states that received 2010 Incentive Awards
- North American Council on Adoptable Children Resources:
  - Implementing the Adoption Assistance Provisions of the Fostering Connections Act
  - De-Linking Provision Will Result in New Child Welfare Funds
  - Claiming the Federal Adoption Tax Credit for Special Needs Adoptions

Tribal Provisions Resources

- Technical assistance document to assist tribes implement a direct title IV-E program
- For a list of tribes that have been awarded development grants to date see:
- National Child Welfare Resource Center for Tribes
Collaborating Organizations

**American Bar Association Center on Children and the Law**
Heidi Redlich Epstein, JD, MSW (kinship)
Kelly Kristin, Esq. (education and older youth)
Kathleen McNaught, Esq. (education)
Andrea Khoury, Esq. (older youth)
Eva Klain, Esq. (health)
202-662-1720
http://www.americanbar.org/groups/child_law.html

**Miriam Aroni Krinsky, Esq.**
ABA Youth at Risk Commission Advisory Council, Member
UCLA School of Public Affairs, Lecturer
krinskym@yahoo.com

**Margaret A. Burt, Esq.**
Attorney in Private Practice, Consultant with ABA Center on Children and the Law
585-385-4252
mburt5@aol.com

**National CASA Association**
M. Carmela Welte, Deputy CEO
1-800-628-3233, ext 203
CASAforChildren.org

**ChildFocus**
Mary Bissell, Esq. and Jennifer Miller, MSW
http://childfocuspartners.com/

**Children’s Defense Fund**
Beth Davis-Pratt, Esq. and MaryLee Allen, MSW
202-628-8787
http://www.childrensdefense.org/policy-priorities/child-welfare/

**CLASP**
Tiffany Conway Perrin, MSW and Rutledge Hutson, Esq.
202-906-8000
http://www.clasp.org/issues?type=child_welfare
Judicial Guide to Implementing the Fostering Connections Act of 2008

Craig Dorsey, Esq.
Attorney in Private Practice specializing in Indian child welfare law
Craig@dorsayindianlaw.com

Generations United
Ana Beltran, Esq.
202-289-3979
www.gu.org

Juvenile Law Center
Jennifer Pokempner, Esq.
1-800-875-8887
http://www.jlc.org/

Honorable Katherine Lucero
Supervisor for Dependency Court, Model Court Lead Judge
Santa Clara County Superior Court, San Jose, California
408-491-4740
klucero@scscourt.org

National Center for State Courts
Kay Farley, Executive Director, Government Relations Office
202-684-2622
http://www.ncsc.org/

National Council of Juvenile and Family Court Judges
Elizabeth Whitney Barnes, J.D.
775-784-7524
http://www.ncjfcj.org/

National Foster Care Coalition
202-280-2039
http://www.nationalfostercare.org/

The National Resource Center for Tribes (NRC4Tribes)
Jerry Gardner, Executive Director
323-650-5467
www.nrc4tribes.org

Voice for Adoption
Nicole Dobbins, Executive Director
202-210-8118
www.voice-for-adoption.org
Transitioning Youth Advocacy Checklist

Below are measures for ensuring that transitioning youth are prepared for independence

Vital Records
- Ensure that youth’s original birth certificate is in their Agency file
- Ensure that youth’s social security card is in their Agency file
- Ensure that youth has a state issued ID
- Ensure that youth’s credit is checked and discrepancies addressed
- Ensure that youth are aware of right to secure vital records upon turning 18

Employment
- Assist youth in applying for Teenwork or other summer job opportunities
- Assist youth in applying for job-readiness opportunities

Education
- Attend specialized education assessment meetings (e.g., SST meetings)
- Meet with teachers, school counselors, graduation coaches, and administrators
- Notify school personnel of youth’s foster care status to support special consideration regarding fees, notice, timelines, and access to resources
- Collaborate with the Agency’s Educational Advocate
- Collaborate with the county’s School System Social Workers
- Obtain and review youth’s educational records and all updates regularly
- Ensure annual review of Individualized Education Plans (IEPs)
- Attend tribunal and disciplinary school hearings
- Assist youth in applying for post-secondary scholarships and resource opportunities
- Advocate for educational stability

Medication/Mental Health
- Ensure that the youth’s therapy is ongoing along with prescription of any psychotropic medication
- Collaborate with youth to ensure that she: (1) knows her medication; (2) knows why she is prescribed same; (3) considers whether the medication is beneficial; and (4) reports the effects of the medication
- Ensure that the youth receives regular medical management and monitoring
- Advocate for continuity of psychiatric and therapeutic providers, as well as continuity of treatment

Disabilities
- Make appropriate referral for SSI and/or adult services
- Ensure IL Services and employment training services make reasonable accommodations for youth with disabilities
- Ensure that youth with disabilities have appropriate housing plans and options

Housing/Placement/Permanent Connection
- Ensure the application process is completed and the youth is approved for independent housing prior to turning 18
- Advocate for continuity in placement and in the least restrictive environment
- Assist youth in identifying and engaging permanent connection resource prior to turning 18

Health/Medical
☐ Ensure that intake screenings are completed (dental, vision, hearing, TB shot); recommend court review
☐ Ensure that recommendations of medical providers are addressed and further medical treatment is provided
☐ Subpoena medical records particularly where a medical need is a material issue to the deprivation
☐ Engage medical advocate as needed
☐ Ensure the youth knows and understands: (1) treatment and medication plans; (2) medical providers and purpose(s); (3) options for treatment; and (4) health provider options after turning 18
☐ Collaborate with Health Department for post-18 health services options for former foster youth
☐ Ensure youth eligibility for and access to post-18 health insurance options

Legal/Financial Other
☐ Work with public defender, prosecutor, and relevant legal systems to resolve youth’s delinquency and/or adult criminal charges
☐ Make appropriate referrals and ensure resources to secure SIJS status prior to youth turning 18
☐ Assist youth with expungement or sealing of delinquency records
☐ Assist with legitimization of youth’s father and youth as minor parent
☐ Assist minor-parents in maintaining legal custody of their children
☐ Aid minor-parents in compliance with case plans and reunification efforts
☐ Assist youth in determining eligibility for, and receipt of, death benefits, insurance settlement, trust funds, and other money held in escrow for the youth
☐ Encourage fiscal management education
☐ Refer youth for IDA account eligibility

18th Birthday Less Than One Year Away:
☐ Attend Transitional Roundtables facilitated by the Agency with youth present
☐ Request Foster Care Exit Hearing with youth present to state whether they will sign back into foster care
☐ Obtain updated Written Transitional Living Plan (WTLP) and that a meeting with the Independent Living Program (ILP) Coordinator for 17 yr. olds has taken place

Prior to 18th Birthday Youth Should Receive:
☐ Copy of Written Transitional Living Plan
☐ Original Birth Certificate
☐ Social Security Card
☐ Medicaid Card (if applicable)
☐ State Issued Identification or Driver’s License
☐ Copy of Court Order showing youth’s former foster care status.
☐ Copy of Foster Care Discharge Order
IN THE JUVENILE COURT OF ______________ COUNTY
STATE OF GEORGIA

IN THE INTEREST OF:

__________________________     SEX: ____       DOB: __________    CASE # _____________
A Child Under 18 Years of Age

FOSTER CARE EXIT REVIEW HEARING

The above-named child has reached 17 years of age as of the date of this hearing. The child will be 18 years old on ___ (date) _____________. The child has been in the Custody of the Department of Family and Children Services (DFCS) since ___ (date) ____________. In accordance with O.C.G.A. § 15-11-58 (c)(9) the case became before the court on ___ (date) ____________ for an exiting foster care review hearing. It is imperative that this child be prepared for independent living when he/she turns 18 years of age, and whether or not the child “signs” him/herself back into care. The child appeared at the hearing and indicated that he/she personally directed the development of his/her Written Transitional Living Plan (WTLP). The child has had adequate opportunity to consult with DFCS and other representatives regarding, at a minimum; options for housing, health insurance, education, local mentoring and support opportunities, and workforce supports and employment opportunities. Once he/she turns 18 years of age, the child will:

( ) Signing himself/herself back into care (see attached document)

( ) Returning to family (Not signing himself/herself back into care): Specify with whom:

______________________________ (child was informed that he/she has six (6) months from date of order to contact DFCS if he/she is going to sign himself/herself back into care.)

Child was served in Court with reset date of ________________________________.

( ) Attend College / Vocational or Technical School / Obtaining GED (Participate in Independent Living Program): Specify ________________________________
Obtaining employment: Specify: ____________________________

Other: _________________________________________________________________

The WTLP was submitted by the Department of Family and Children Services. The Court reviewed and adopted the WTLP. The Court also interviewed the child and after hearing testimony, found that the child participated in the development of the WTLP and it is appropriate for the circumstances of this child. The Court also finds that the child has /or will receive the following before his/her 18th birthday:

- Copy of Written Transitional Living Plan
- Original Birth Certificate
- Social Security Card
- Medicaid Card (if applicable)
- State Issued Identification or Driver’s License
- Copy of Order showing the child was in care.

IT IS SO ORDERED this _____ day of __________________, 20____.

____________________________________
Juvenile Court Judge

Present / Consented to by / Acknowledgement of Receipt by: (circle as appropriate)

Youth

Attorney/ GAL for Youth

CASA

Physical Custodian

SAAG

Other

Mother

Father
February 28, 2007

ALL COUNTY LETTER NO. 07-10

TO: ALL COUNTY WELFARE DIRECTORS
    ALL CHIEF PROBATION OFFICERS

SUBJECT: BEST PRACTICE GUIDELINES FOR SCREENING AND PROVIDING
FOR FOSTER CHILDREN WITH DISABILITIES

Assembly Bill (AB) 1633 (Chapter 641, Statutes of 2006) required the California Department of Social Services (CDSS) to convene a workgroup of interested parties to develop Best Practice Guidelines (BPGs) to assist foster children to receive all federal Retirement, Survivor, or Disability Insurance (RSDI) benefits or Supplemental Security Income/State Supplemental Payment (SSI/SSP) benefits to which they are entitled. The workgroup met from April to December of 2006 and has developed the attached BPGs which provide useful information and direction for counties regarding strategies and procedures which promote beneficial screening processes for children and help ensure that federal benefits are received. Counties are strongly encouraged to consider implementation of these guidelines.

The BPGs refer to three brochures which will inform parents and youth about the SSI/SSP program. These brochures are currently in the Departmental signoff process and should be available on the CDSS website in early 2007.

If you have any questions about this ACL, please contact me at (916) 657-2614, or you may contact your Funding and Eligibility Unit County Consultant at (916) 651-9152.

Sincerely,

Original Document Signed By:

MARY L. AULT
Deputy Director
Children and Family Services Division

Attachments

c: CWDA
CPOC
BEST PRACTICE GUIDELINES FOR SCREENING FOSTER CHILDREN WITH DISABILITIES AND ASSISTING THEM WITH ELIGIBILITY FOR SOCIAL SECURITY BENEFITS
All County Letter No. 07-10

What Are Best Practice Guidelines and How Will They Be Used?

Assembly Bill (AB) 1633, Chapter 641, Statutes of 2006, required the California Department of Social Services to develop best practice guidelines, in conjunction with a workgroup comprised of county staff, advocates, and current and former foster youth, for the identification of children with disabilities. The primary purpose of AB 1633 is to make every effort to get federal Supplemental Security Income (SSI) and Social Security, Retirement, Survivor, or Disability Insurance (RSDI) benefits in place for potentially eligible youth before the youth transitions from foster care. The guidelines are intended to assist counties in establishing a process for them to use in assessing a child's potential eligibility for SSI and RSDI benefits and for initiating an application for such benefits on behalf of foster children so that application delays are avoided and youth emancipate with those benefits in place.

These best practice guidelines provide useful information and direction for counties regarding strategies and procedures to promote beneficial screening processes for children and help ensure that federal benefits are received. While these guidelines are not mandatory, they will assist in meeting the objective of AB 1633 by getting federal disability benefits in place for youth and explain the fiscal and programmatic advantages for counties who implement the strategies. The Guidelines were developed by county social and eligibility workers, county program managers, representatives of the County Welfare Directors’ Association (CWDA), child advocates, current and former foster youth, and State staff and represent what the workgroup believes to be a logical and viable process for establishing benefits for this vulnerable youth population. Through the application of these guidelines, counties will be able to ensure that foster children and youth receive all federal benefits to which they are entitled while in care, and that children and youth exiting the foster care system and their families understand their rights and responsibilities concerning the receipt of SSI and RSDI benefits.

Counties may realize improved safety, permanency and child well-being outcomes by employing these best practice guidelines to maximize access to SSI and RSDI benefits for foster children. The receipt of financial support at the point of reunification may help to speed up time to reunification and give parents access to resources and support services to help prevent foster care re-entry. The higher SSI monthly benefits paid to foster parents and relative caregivers, enabling them to meet the child’s special needs, may help to stabilize placements. The receipt of SSI may increase permanency outcomes by ensuring the caregiver has the financial resources to care for the child without ongoing court dependency. If the caregiver is otherwise suitable, the county has the option of recommending the caregiver become the child's legal guardian and the SSI/RSDI representative payee, thus allowing the long term foster care dependency case to be closed and the Child Welfare Services/Case Management System case to be terminated. Several of the 17 new federal Children and Family Services Review (CFSR) outcomes now measure increases in exits due to guardianship and reduction in numbers of foster youth remaining in care until age 18. Improvements in these new outcomes are possible by using the SSI/RSDI benefits to increase exits from foster care, as appropriate.
Disabled foster youth who emancipate from care without establishing eligibility for federal disability benefits are especially vulnerable to negative outcomes such as homelessness and untreated medical conditions. These guidelines, therefore, focus on providing subsistence benefits for those youth who are least able to successfully transition to self sufficiency. Not only is receipt of SSI and/or RSDI benefits important to the success of children and youth, in most cases receipt of SSI/RSDI is a financial benefit to the county because there is no county share of cost in either program. Thus, implementation of these guidelines provides a unique opportunity to significantly improve the well-being outcomes of youth transitioning out of foster care without imposing any new local costs.

As of the date that these Best Practice Guidelines were released, the Workgroup has been unable to resolve an identified issue which limits the application of these guidelines to some children/youth receiving federal foster care. Pursuant to federal policy, children receiving federal foster care benefits may not be able to apply for SSI until one month prior to termination of those benefits. Because SSA processing timeframes currently take several months, this means that these youth will not have benefits in place prior to their emancipation. The CDSS and the Workgroup are continuing to analyze this barrier and working internally and with SSA to identify solutions that will resolve the issue and permit every youth in foster care who is likely to be eligible for SSI benefits to submit an application well in advance of emancipation. Counties are encouraged to work to find solutions that may address the issue at the local level, while the CDSS and the workgroup continue to pursue these solutions.

All counties are encouraged to develop practices which promote these best practice guidelines. The CDSS recognizes that some counties already perform these functions successfully and that some counties contract out part or all of these processes. These guidelines are not meant to supplant existing effective processes already in place but rather to enhance such processes.

For those counties that do implement these guidelines in part or in whole, we strongly recommend that the county keep statistics as to how many children were screened, how many children had applications filed with SSA, and how many applications were approved both pre and post-implementation of these guidelines.
The definition of a disabled child from the Social Security Administration (SSA) states:

SSA considers a child disabled if:

- The child has a physical or mental impairment (or combination of impairments)
  - That causes marked and severe functional limitations;
  - AND has lasted or is expected to last for at least 12 consecutive months,
    or to result in death.

- The child is not working at a job and doing substantial work.

A child is presumptively disabled due to:

- amputation,
- deafness,
- blindness,
- wheelchair or bed-bound,
- Cerebral Palsy,
- Down Syndrome or obvious mental retardation,
- prematurity with birth weight of 1,200 grams or less, or
- HIV/AIDS
SSI SCREENING GUIDE
SECTION A - DISABILITY SCREENING

<table>
<thead>
<tr>
<th>DISABILITY SCREENING QUESTIONS</th>
<th>YES</th>
<th>NO</th>
<th>Info. Not Available</th>
</tr>
</thead>
</table>
| 1. Have the parents/caregivers indicated that the child is receiving SSI?? **  
  ** If "Yes," STOP, inform eligibility worker (or appropriate county staff person) to evaluate and send, if appropriate, change of payee information to SSA. |    |    |                     |
| 2. Does the child have a serious physical or mental impairment which limits his/her daily activities?  
  [Check yes if the child has difficulty, as compared to other children of the same age who do not have impairments, doing any of the following: (1) attending to and completing tasks; (2) interacting and relating to others; (3) moving about and manipulating objects; (4) caring for himself/herself.] |    |    |                     |
| 3. Has the child been hospitalized or required medical treatment for a medical disability or psychiatric condition that has lasted or can be expected to last 12 months or result in death? |    |    |                     |
| 4. During the past year, has child required medication on a daily basis? |    |    |                     |
| 5. Has the child had school absenteeism due to health or behavioral problems? |    |    |                     |
| 6. Has the child been tested for OR does the child attend special education classes?  
  (Does the child have an Independent Education Plan (IEP), a pending IEP, or does the child qualify for services under Section 504 (504 Plan or accommodations) or is the child being assessed for these services?  
  Has the child been designated Seriously Emotionally Disabled (SED)?  
  Does the child have an Individualized Family Support Plan (IFSP) with Regional Center? |    |    |                     |
| 7. Does the child require adaptations in order to function including assistive devices or appliances such as eyeglasses, hearing aids, orthopedic devices, or devices for self-care activities such as bathing, feeding, toileting, and dressing? |    |    |                     |
| 8. Are the child's standardized test scores lower than average? |    |    |                     |
| 9. Does the child receive special services such as counseling or speech therapy? |    |    |                     |

<table>
<thead>
<tr>
<th>FAST-TRACK SCREENING QUESTIONS</th>
<th>YES</th>
<th>NO</th>
<th>Info. Not Available</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. Is the child 16.5 years old or older?</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>11. Is the child likely to exit Foster Care, through adoption, guardianship, emancipation, or reunification, in less than one year?</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>12. Does the child have a presumptive disability: amputation, deafness, blindness, wheelchair or bed-bound, cerebral palsy, Down syndrome or obvious mental retardation, prematurity with birth weight of 1,200 grams or less, or HIV/AIDS?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13. Is the child a minor parent?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14. Is the child eligible for or does the child receive a Specialized Care Increment (SCI) or Regional Center Rate?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

INSTRUCTIONS: Any affirmative response in questions 1 through 9, warrants referral of the child for an SSI assessment. Any affirmative response in questions 10 through 14 requires that the child be placed in the "Fast Track" assessment process.

Referred to SSI Assessment?  ■ YES  ■ NO
Fast Track?  ■ YES  ■ NO

SIGNATURE OF EMPLOYEE COMPLETING SECTION A

DATE

PRINTED NAME/HID # CLASSIFICATION OF EMPLOYEE COMPLETING SECTION A
SSI SCREENING GUIDE
SECTION B - FINANCIAL SCREENING

Child's Current Funding Source and Amount:

- 40 Foster Care $__________
- CalWORKs $__________
- Other $__________
- 42 Foster Care $__________
- SSI $__________
- SSA or DAC $__________

Is the child a U.S. citizen or qualified immigrant?  ■ YES  ■ NO

If NO, the social worker should consult with a knowledgeable attorney regarding those children who are currently non-citizen/non-legal residents to determine the best method for gaining the child legal status and any potential benefits. A list of agencies which can assist with this process is attached in Appendix B.

Calculation:

1. Amount of federal Foster Care (including SCI)  
2. Sum of A times 30%  
3. Subtract the SSI/SSP Non-Medical Out of Home Care Rate (NMOHC) from the Federal FC rate.

Compare 2 and 3 to determine whether it is financially advantageous to apply for SSI.

If child/youth is not receiving 42 Foster Care or currently on SSI/RSDI, and identified as potentially eligible in Section A, child should be moved to Fast Track.

SIGNATURE OF EMPLOYEE COMPLETING SECTION B  
DATE

PRINTED NAME/ID/CLASSIFICATION # OF EMPLOYEE COMPLETING SECTION B

1 If child/youth in receipt of SSI/RSDI, complete payee change, as appropriate. As it may be more advantageous to the youth to remain on SSI, complete the above calculation PRIOR to granting federal FC.

2 This rate is subject to change due to periodic cost of living adjustments.
# SSI SCREENING GUIDE
## SECTION C - APPLICATION INFORMATION

<table>
<thead>
<tr>
<th>CHILD'S NAME</th>
<th>CHILD'S DOB</th>
<th>CHILD'S SS#</th>
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<tr>
<th>CHILD’S CASE #</th>
<th>DATE COMPLETED</th>
<th>NEXT SCREENING DUE (MUST BE DONE AT LEAST ANNUALLY)</th>
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Use the SSI Screening guide, Sections A and B and the flow chart to make a decision as to whether SSI should be applied for. **Apply for SSI? □ YES □ NO**

1. If YES, contact SSA at 1-800-772-1213 to establish an appointment date for an application and/or protective filing date.¹

2. Date call made: ______________________

**NOTE:** An application must be filed with SSA within 60 days from the date SSA is called in order to use this date as a protective filing date.

<table>
<thead>
<tr>
<th>DATE APPLICATION MUST BE RECEIVED BY SSA</th>
<th>DATE ASSESSMENT INITIATED</th>
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<table>
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<tr>
<th>ASSIGNED SW/PHONE</th>
<th>DATE APPLICATION SENT</th>
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3. If NO, reason for not applying: ______________________

____________________________________________________________________

If deferred, date eligibility should be reassessed and/or application filed: ______________________

<table>
<thead>
<tr>
<th>SIGNATURE OF EMPLOYEE COMPLETING SECTION C</th>
<th>DATE</th>
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<tr>
<th>PRINTED NAME/ID/CLASSIFICATION # OF EMPLOYEE COMPLETING SECTION C</th>
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¹ **NOTE:** The county can call SSA for an appointment for SSA to help the county complete an application, or to establish a protective filing date. To maintain the protective filing date, the county must file the application with SSA within 60 days of the date of the initial call/protective filing date.
SSI SCREENING

1. All children who enter a foster care (FC) placement should receive an initial disability and financial screening for SSI eligibility. This population includes:
   - Dependents,
   - Wards of the court,
   - Children subject to a Voluntary Placement Agreement,
   - Wards of a Legal Guardianship,
   - Children who have been relinquished to a licensed public or private adoption agency or the department, AND
   - Children whose parents have had their parental rights terminated.

Please note a child/youth must be a citizen or qualified immigrant in order to receive SSI. The social worker should consult with a knowledgeable attorney regarding those children who are currently non-citizen/non-legal residents to determine the best method for gaining the child legal status and any potential benefits. A list of agencies which can assist with this process is attached in Appendix B.

2. Children should be screened using an appropriate screening guide within three months of entering custody.

3. Answers to the screening guide Disability Screening (Section A) should help evaluate the child’s physical or mental impairments which might make the child eligible for SSI benefits as well as the case plan objectives for the child. This portion of the guide should be completed by a social worker or other individual familiar with the child.

4. The screening guide Financial Screening (Section B) should also contain information as to the child’s current benefit levels and likely SSI benefit levels so that a determination can be made as to whether application for SSI would be beneficial for the child. Section B also contains a formula for analysis of the current funding and potential SSI funding; this guide should be used at intake for children/youth already receiving SSI and at any time an application for SSI is being considered. This portion of the guide should be completed by an employee with a financial background, such as an Eligibility Worker.

   - Special attention should be given to youth who are already receiving SSI benefits and entering care at 16.5 years or older. Because one of the main aims of these guidelines is to ensure that youth exiting care have SSI benefits in place, it may be detrimental to the youth to suspend SSI benefits and apply for federal foster care when the child is close to emancipation. If the youth is 17 or older and the county makes the decision to grant federal FC benefits, the county should request that SSA place the SSI benefits in suspense. (SSA can suspend the youth’s benefits for up to one year which allows the child to maintain eligibility without having to resubmit application.) If a child is receiving SSI benefits and there is a change which affects his/her eligibility such as an increase in income, their benefits may be suspended for 12 consecutive months before their record is terminated. If the child becomes eligible within that 12-month period, it is the county’s responsibility to contact SSA to have the benefits reinstated.
5. If the results of the initial screening are affirmative in that the child would likely be eligible for SSI, the child should be referred to the county designated SSI liaison (see page nine for explanation) for determination as to whether the application should be filed and assessment process should be started. If the results of the screening are negative, a due date for the next annual screening should be recorded on the screening guide.

6. Specific to Question #6 on the SSI Screening Guide, Section A, Disability Screening: The Individualized Education Plan (IEP) is a written document describing the services and accommodations that will be provided to the student because he/she qualifies for Special Education services under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400, et seq.). Students access special education services based on one of twelve qualifying disabilities, including Emotional Disturbance (formerly Severely Emotionally Disturbed or SED), Specific Learning Disability and Autism (34 C.F.R. 300.8). If a child does not qualify for special education services under IDEA, he/she may be able to access services through Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). Section 504 was designed to serve students with physical or mental disabilities that impair a major life skill, such as learning [34 C.F.R. 104.3(j)]. The IEP or a list of Section 504 accommodations can be found in the child's cumulative school file.
RESCREENING

1. Children who were initially screened and NOT referred for an SSI application should be re-screened at LEAST annually or whenever there is a change in circumstances, e.g., change of placement (to a lower placement rate), change of physical and/or emotional condition, which might make the child eligible for SSI. Children/youth whose applications were initially deferred due to a lack of citizenship or qualified immigrant status should be rescreened when status is granted.

2. When the child is rescreened and the outcome is still no referral, the date that the next screening is due should be noted on the screening guide.

3. It is recommended that the counties tie this annual screening process to an already existing time frame such as the annual eligibility redetermination or case plan updates.

4. If at the rescreening, the child is referred for an SSI Application, the county should complete the Assessment process within 9 months UNLESS the child is referred to the “Fast Track” process.

APPLICATION DECISION PROCESS—COUNTY DESIGNATED SSI LIAISON

County Designated SSI Liaison

1. These guidelines recommend that each county designate an employee or team of employees who will “specialize” in the SSI application process.

2. The county designated SSI Liaison or team will be a central point of contact for the Social Security Administration (SSA) in the county. These guidelines also recommend that the county liaison work with their local Social Security Office to set up procedures that may work best in their county.

3. The county designated SSI Liaison should also coordinate all appeals.

Application Decision Process

1. Children who are screened as likely eligible for SSI should be referred to the county designated SSI liaison. The SSI liaison should review the screening guide and determine whether an application should be filed on behalf of the child and if so when. This review should include a cost/benefit analysis for the child and family as well as the county. The best interests of the child should be paramount to any county financial considerations.

2. The following flow chart explains the decision points a county should consider in deciding whether an SSI application on behalf of the child should be filed. The intention of the workgroup in developing these guidelines and flowchart was to ensure that children/youth who were exiting the Foster Care system would either have benefits in place prior to their exit, or have adequate information to apply for benefits themselves.
Decision-Making Tool: When to Initiate an SSI Application

1. Is the county’s share of cost more than it would be if the child/youth were in receipt of SSI?
   - YES: Call SSA at 1-800-772-1213 to establish a protective filing date by scheduling an appointment
   - NO: Next step

2. Is the youth within 1 year of emancipation?
   - YES: Call SSA at 1-800-772-1213 to establish a protective filing date by scheduling an appointment
   - NO: Next step

3. Is the permanency plan reunification?
   - YES: Next step
   - NO: TICKLE to review later

4. Is the permanency plan adoption?
   - YES: Next step
   - NO: Next step

5. Is the permanency plan guardianship?
   - YES: Next step
   - NO: Next step

6. Is the permanency plan adoption?
   - YES: Next step
   - NO: Next step

7. Is the permanency plan guardianship?
   - YES: Next step
   - NO: Next step

8. Is the anticipated date for reunification within 1 year?
   - YES: Next step
   - NO: TICKLE to review later

9. Is the youth eligible for Title IV-E (aid code 42) foster care?
   - YES: Next step
   - NO: Next step

10. Are (or were) the parent(s) receiving CalWORKs?
    - YES: Next step
    - NO: Next step

11. Does the family or the youth (if 18 or older) want SSI?
    - YES: Next step
    - NO: Next step

12. Is there an adoptive placement agreement?
    - YES: Next step
    - NO: TICKLE to review later

13. Are (or were) the parent(s) receiving CalWORKs?
    - YES: Next step
    - NO: Next step

14. Does the family or the youth (if 18 or older) want SSI?
    - YES: Next step
    - NO: Next step

15. Does the guardianship within 6 months or is child eligible for Kin-GAP?
    - YES: Next step
    - NO: TICKLE to review later

16. Referral OR Call SSA at 1-800-772-1213 to establish protective filing date by scheduling an appointment
3. Flow Chart Explanation:

a. Is the county’s share of cost more than it would be if the child/youth were in receipt of SSI? In other words, is it financially advantageous for the child, family and/or county for an SSI application to be filed? For example, if the child is receiving CalWORKs rather than Foster Care funding, it would be advantageous to both the county and the child to apply for SSI.

- If yes, a protected filing date (PFD) should be established with SSA by contacting SSA at 1-800-772-1213 to schedule an appointment or inform them of your intent to file an application; the application must be filed within 60 days from the date of contact with SSA to avoid loss of the PFD. An SSI Assessment should also be undertaken (see p. 13).
- If no, continue flow chart.

Examples of computation to be used in 3(a):

<table>
<thead>
<tr>
<th></th>
<th>1. Amount of federal Foster Care (including SCI)</th>
<th>1. Federal FC Payment Rate: $1200 x County share of cost: (30%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. Sum of A times 30%</td>
<td>2. Total $360</td>
</tr>
<tr>
<td></td>
<td>3. Subtract the SSI/SSP Non-Medical out of Home Care Rate from the Federal FC rate.</td>
<td>3. Federal FC Payment Rate: $1200 Minus SSI/SSP NMOHC Rate $-1035 Total: $165</td>
</tr>
</tbody>
</table>

In this example, if the county applied for SSI for the youth, then supplemented with county only funds, it would likely be financially advantageous for the county to apply for SSI.

<table>
<thead>
<tr>
<th></th>
<th>1. Amount of federal Foster Care (including SCI)</th>
<th>1. Federal FC Payment Rate: $1800 x County share of cost: (30%)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2. Sum of A times 30%</td>
<td>2. Total $540</td>
</tr>
<tr>
<td></td>
<td>3. Subtract the SSI/SSP Non-Medical Out of Home Care Rate from the Federal FC rate.</td>
<td>3. Federal FC Payment Rate: $1800 Minus SSI/SSP NMOHC Rate $-1035 Total: $765</td>
</tr>
</tbody>
</table>

In this example, if the county applied for SSI for the youth, then supplemented with county only funds, the county would end up spending more on the youth’s placement than if the youth received AFDC-FC. It is important to note, however, that FC benefits terminate at emancipation whereas SSI benefits can continue into adulthood as long as the disability continues.

b. Is the youth within one year of transitioning out of Foster Care?

- If yes, PFD should be established with SSA by contacting SSA at 1-800-772-1213 to schedule an appointment or inform them of your intent to file an application. The application must be filed within 60 days from the date of contact with SSA to avoid loss of the PFD. An SSI Assessment should also be undertaken (see p. 13).
- If no, continue flow chart.
c. Is the child/youth’s permanency plan reunification and is the reunification date anticipated within 1 year?
   - If no, tickle the file until the date is confirmed within one year.
   - If yes, is the youth eligible for IV-E or were the parents receiving CalWORKs prior to the child/youth’s removal?
     1. If no, analysis is complete and no application filed at this time.
     2. If yes, does the family or youth (if age 18) want SSI?
        a. If no, analysis is complete, no applications filed at this time.
   - If yes, PFD should be established with SSA by contacting SSA at 1-800-772-1213 to schedule an appointment or inform them of your intent to file an application. The application must be filed within 60 days from the date of contact with SSA to avoid loss of the PFD. An SSI Assessment should also be undertaken (see p. 13).
        a. If the child’s return home is planned within the next 60 days, the parents should be informed of the child’s potential eligibility for SSI and a brochure provided.

d. Is the child/youth’s permanency plan adoption?
   - If no, analysis is complete and no application is filed at this time.
   - If yes, is there a signed adoption placement agreement?
     1. If yes, the adoptive parents should be informed of the child’s potential eligibility for SSI and a brochure provided.

Note: Adoptive parent’s income and resources may be considered as part of the SSI determination.

e. Is the child/youth’s permanency plan legal guardianship within the next six months or is the child eligible for Kin-GAP?
   - If no, analysis is complete, no application filed at this time.
   1. If yes, the potential legal guardian should be informed of the child’s potential eligibility for SSI and a referral made. If the legal guardian is a relative, an explanation of other available benefits should be given, e.g., Kin-GAP, CalWORKs, AAP, etc.

** It should be noted that if there is a chance the child will return home, the decision to apply for SSI should be discussed with the child’s parents.

4. If application is to be filed, a PFD should be established with SSA by contacting SSA at 1-800-772-1213 to schedule an appointment. In addition, an SSI Assessment should be undertaken immediately. (See SSI Assessment on page 13.)

5. When the liaison calls SSA to establish a PFD, an appointment can be made up to 4 weeks from the date of the call. If the SSA does not receive an application after several attempts, they will send a closeout notice to the county indicating the PFD will be closed. The notice gives the county/claimant 60 days to get the application in. Thus, the liaison should not establish a PFD until they are reasonably certain that they can meet SSA’s timelines.
6. Once the Assessment is complete, the SSI Liaison shall prepare the application for SSI and forward it to SSA. The liaison is encouraged to work with their local SSA office on completion of the application form. If the child is placed in out-of-home care, then the county may want to consider submitting an SSP 22 along with the application in an effort to expedite processing. The SSP 22, Authorization for Non-Medical Out-of-Home Care, certifies that the child is in an out-of-home placement and entitled to the higher SSI non-medical out-of-home care rate ($1035 as of the writing of these best practice guidelines). It should be noted that since SSA will still be responsible for investigating the license/approval status of the facility, even though SSA may receive the SSP 22 with the application, they still have to ensure that license is valid, etc. Therefore, if counties are waiting on the SSP 22 information before sending in the application, they may be unnecessarily delaying the processing of the application resulting in delaying the claim and duplicating work that SSA will perform. Therefore, if there is any doubt or delay, the county may want to defer to SSA as to the need for an SSP 22. (A sample of the SSP 22 is included in Appendix E.)

Notes:
- The SSP 22 form should not be completed if the child/youth will be returning home.
- If the child/youth is placed out of state, the county will need to ascertain what type of rate is available to the child in the host state.

7. Approximately two weeks after mailing the application, the SSI Liaison should contact the local SSA Office. This phone call provides an opportunity for the SSI Liaison to introduce themselves and be a point of contact between the child and the Disability Evaluation Analyst (DEA). In addition, this may be an opportunity for SSA staff to inform the SSI Liaison of a scheduled medical exam for the child, ensure that the child has transportation to the appointment, ask subsequent case questions, etc.

SSI ASSESSMENT

1. The SSI Assessment should begin immediately after the SSI liaison has determined an SSI application should be filed and be completed by the end of the first year that the child is in care (unless the child is referred to the “Fast Track” process -- see below).

2. Disability Assessment:
   1. The Disability Assessment should be conducted using an Assessment Tool, or a similar instrument, to ensure thoroughness. (A Sample Tool follows.) This tool should be used by the SSI Liaison to ensure that all relevant data and information has been gathered for inclusion with the SSI application.

   2. The Disability Assessment is comprised of referrals to various medical and psychological evaluations and gathering of necessary documentation to substantiate the child’s disability.
3. The referrals for medical and psychological evaluations, function reports, etc. should be completed by an employee with skills in evaluating a child for disabilities, such as a social worker or public health nurse. If feasible, referrals to specialists should not be made until initial reports are received from the child/youth's treating physicians.
SSI ASSESSMENT TOOL

CHILD’S NAME: 
CHILD’S DOB: 
CHILD’S SS#: 
PFD: 

Fast Track? ■ YES ■ NO

Disability Assessment

The following documents should be gathered and submitted to SSA with the application:

Medical/Behavioral/Developmental

Gather Data (information from child’s treating physicians is preferable).

- Child’s Medical Record Number(s) and source of number(s)
- Name, address, and phone number of every doctor, therapist, and clinic/hospital that has seen or treated the child for at least the last year.
- Any available medical records.
- Any medications the child is taking.
- Any medical tests the child has had.
- Signed Authorization to Disclose Information to the Social Security Administration (SSA 827) (See Appendix C for sample.)
- Function Reports (SSA 3375 through 3379)
- SSA 3368 or SSA 3820
- SSA 11 BK (Representative Payee Form)

Educational

Gather Data:

- Names, addresses, and phone numbers of any schools the child attended in the past 12 months.
- Names of teachers, psychologists, counselors, speech and other therapists who have seen or treated the child.
- The child’s Individual Family Services Plan or Individualized Education Plan.
- Other school records.

Employment/Financial/Other

Gather Data:

- Names, addresses and phone numbers of any employers the youth has had.
- Proof of current income and resources for the child.
- Certified copy of birth certificate or proof of U.S. citizenship or qualified immigrant status.
- Copy of court order which gives county custody and care of child/youth.

Likely Eligible for SSI? ■ YES ■ NO

NOTE: The following categories of disability are presumptively eligible: amputation, deafness, blindness, wheelchair or bed-bound, cerebral palsy, Down syndrome or obvious mental retardation, prematurity with birth weight of 1,200 grams or less, or HIV/AIDS.

Condition(s) likely to qualify child for SSI: ____________________________

SIGNATURE OF EMPLOYEE COMPLETING FORM: ________________________

DATE: __________

PRINTED NAME/ID #: CLASSIFICATION OF EMPLOYEE COMPLETING FORM: ____________________________
3. Deferred Applications:

- If after the Financial Assessment, it is decided to defer an SSI application due to financial considerations, a tickler system should be developed so that the case will be forwarded for application at least six months prior to when the child transitions from care, exits care, or it becomes financially advantageous for the child or family to receive SSI benefits instead of or in addition to foster care funding.

**FAST TRACK -- DISABILITY AND FINANCIAL ASSESSMENT**

1. Population:

The following populations of children should be “Fast Tracked” through the application process due to increased need for expeditious applications or greater need for the financial resources:

- Youth who are age 16.5 or older;
- Children receiving no Foster Care funding (Aid Code 40 or 42);
- Children who will exit Foster Care via adoption, guardianship, reunification, or emancipation in less than a year;
- Children receiving SCI or Regional Center rates;
- Children with presumptive disabilities, i.e., amputation, deafness, blindness, wheelchair or bed-bound, Cerebral Palsy, Down Syndrome or obvious mental retardation, prematurity with birth weight of 1,200 grams or less, or HIV/AIDS.

** If the youth is also a parenting minor, the youth should be given the highest priority.

2. Process:

- Fast Tracked Children should be identified at the initial screening and immediately referred to the SSI Liaison for Assessment and application. The Screening Guide will identify that the child is “Fast Track.”

- Fast Track Assessments should be completed within 6 months of screening or on a case sensitive basis. For example, if the child is identified as Fast Track because the child is turning 18, the application should be completed in time for SSI to be in place before they transition from care.

- It may be necessary for the application to be sent to SSI before all relevant documentation can be gathered to expedite the process.
RECONSIDERATIONS AND APPEALS

1. When a recipient receives a notice from SSA either denying or terminating benefits, the appeal process is as follows:

   A. The recipient must file an appeal (currently a Request for Reconsideration) within 60 days of receipt of the notice. (Initial denials are very common.) If it is a termination of benefits, and the recipient appeals within 10 days, the benefits will continue through the appeal, up to an administrative hearing decision.

   B. When filing a Request for Reconsideration, the box for “Informal Conference” should be checked, to assure an in-person discussion of the case review.

   C. The likelihood of approval is higher on appeal, so it is much better to appeal than to file a new application. The claimant (or county) should complete the request for reconsideration and either mail it or hand deliver it to SSA.

   D. The reconsideration is intended to be a complete review of claimant’s file by someone who did not take part in the first decision. If additional medical information is available, it should be submitted with the appeal.

   E. There is no formal timeframe for SSA to make a determination on an appeal.

   F. If SSA denies the Request for Reconsideration, the next step is to request a hearing before an Administrative Law Judge. This request also must be made within 60 days from the decision. It may take a year or more for the hearing to be scheduled.

   G. The likelihood of success rises at each level of appeal, so this process should be undertaken. At this point, it is probably best that the recipient or the county consult with an attorney, either county counsel or a private attorney specializing in SSI appeals.

2. The county-designated SSI liaison should manage the appeal and reconsideration process for each youth still in care and should familiarize themselves with the process and timeframes.

3. For youth that have transitioned from foster care, the county, utilizing its Independent Living Program or other means, should assist the youth with any SSI related paperwork.

4. Emancipated youth should also be referred to the “One Stop” center in each county for help with SSI related issues. At each “One Stop” center, there is a benefits navigator who can help the youth with their SSI benefits.

\[1\] Counties should be aware that fees may be available from a retroactive award of benefits to cover the attorney costs in successful cases.
YOUTH WHO TRANSITION OUT OF CARE WITHOUT SSI BENEFITS IN PLACE

Special care should be taken by the county wherever and however possible to assist potentially SSI eligible youth who emancipate without SSI benefits in place. Although some youth who transition from care choose not to maintain a connection with the county once they emancipate, if the youth is willing, the county should attempt to maintain contact with the youth and track their progress toward gaining SSI benefits. Examples of services which the county could provide to these youth are:

1. Aftercare/ILP workers could help with the SSI application process, including appeals.
2. Involve a responsible adult in the child’s application process so that adult can provide necessary guidance to the child and assist in future efforts to access SSI benefits.
3. Make arrangements with local legal services agencies to provide counsel to emancipated youth on SSI application matters.
4. Refer youth to appropriate adult social services such as Regional Centers or IHSS. A list of local agencies follows in Appendix A.

Note: Welfare and Institutions Code, Section 391 requires counties to make a report to the court concerning a youth’s readiness for emancipation. Counties may wish to consider whether the circumstances of a youth with a pending SSI application are such that the youth would not be considered ready for emancipation.

PROCEDURES FOR EXISTING FOSTER CARE POPULATION

Counties are encouraged to screen all children who are already in care as of the implementation of these guidelines within two years of the implementation date of this ACL.

1. Counties should tie the initial screening process to an existing county process such as the annual eligibility reevaluation or a case plan update, to help ensure compliance.

2. Children who are 17 years old at the time of screening should have applications submitted as soon as practicable if the screening demonstrates potential SSI eligibility.
INFORMING REQUIREMENTS

Parents/Caretakers

When a child exits foster care who has been identified as potentially eligible for SSI, yet no application has been filed with SSA, the county shall be responsible for providing the parents or caretakers with information about the potential SSI eligibility.

1. A sample brochure is being developed by CDSS and should be available on its website in early 2007. The brochure will outline the basics of the SSI program. The brochure will contain information about:
   a. The SSI Program;
   b. Deemed income and its effect on eligibility;
   c. The effect of SSI on CalWORKs;
   d. Responsibilities of being a representative payee;
   e. The appeals process; and
   f. Benefits changing due to a change in living arrangements/moving.

2. It is recommended that the social worker provide this brochure to the parents/caretaker when the child is getting ready to return home.

3. If there are specific questions about SSI that the social worker cannot address, a referral to the county designated SSI liaison should be made.

4. While it is recognized that counties are bound by HIPAA regulations, counties are encouraged to give parents/caretakers any SSI related materials which they legally can provide to the parents which would help the parents complete an SSI application. In addition, the county should encourage teachers and medical professionals to keep copies of any SSI related reports or materials that they have prepared so that the parents can obtain copies more easily.

5. In addition to providing the sample brochure, counties are encouraged to include information about SSI eligibility in the child’s case plan. Any discussions with the parents about potential SSI eligibility should also be documented in the case plan.

Youth

1. It is important that children and youth be informed about the SSI program if an application is being filed on their behalf. In addition, when a youth emancipates from foster care who has been identified as potentially eligible for SSI, yet no application has been filed, the county shall be responsible for providing the youth with information about his/her potential SSI eligibility.
2. Two sample brochures are being developed by CDSS and should be available on its website in early 2007. These brochures will inform children/youth about SSI.

3. The first brochure will provide general information about the SSI program and should be given to youth, as age appropriate, to inform them about an application being filed on their behalf. This brochure will contain the following:
   a. Basic information about the SSI Program;
   b. The benefits of the program to the youth;
   c. The appeals process;
   d. Inform the youth to tell the county if something changes in their health/mental status;
   e. Advise the youth that if they do not want SSI benefits, they should discuss it with their attorney;
   f. Assure the youth that SSI is not a lifelong assessment of their abilities and that it can help them get better and then no longer be needed;
   g. Explain to the youth that it is a federal program, not a county program;
   h. Recertification;
   i. Managing their own benefits;
   j. The disability review process;
   k. Resources where they can receive help.

4. The second brochure should be given to youth who are transitioning from care with SSI benefits in place and need information about how to maintain their current benefits. This brochure should be discussed with the youth as part of their Transitional Independent Living Plan (TILP) and contain the following:
   a. Basic information about the SSI program;
   b. The benefits of the program to the youth;
   c. The appeals process;
   d. Informs youth that they can request and receive travel expenses to travel for their consultative exams;
   e. Discusses the availability of after-care workers;
   f. Explains recertifications;
   g. Explains what happens if the youth moves, goes to college, changes living arrangements;
   h. Assures the youth that SSI is not a lifelong assessment of their abilities and that it can help them get better and then not be needed;
   i. Explains what happens if the youth gets a job;
   j. Explains the youth’s rights, responsibilities, and reporting requirements;
   k. Explains the availability of a benefits navigator at the local “One Stop;”
   l. Explains what happens if the youth gets married. Has a baby.
   m. Explains that the youth gets no-share-of-cost Medi-Cal with prescription, dental, and medical coverage;
   n. Discusses the potential of accumulated benefits.
SSA RETIREMENT, SURVIVORS, OR DISABILITY INSURANCE (RSDI) BENEFITS;
DISABLED ADULT CHILD BENEFITS

SSA Retirement, Survivors, or Disability Benefits

1. Every child should be screened for RSDI benefits.

2. First question: Is the child currently receiving benefits? This information can be found in the Income Eligibility and Verification System (IEVS) and/or Medi-Cal Eligibility Data System (MEDS).
   a. If yes, complete a SSA 11 BK change in payee, if appropriate.
   b. If no, go to number three.

3. Second question: Does the child have a deceased parent? A parent over 62 years of age? A disabled parent (on IEVS/MEDS)?
   a. If yes to any of the questions, an application (SSA 4BK) should be sent with a certified copy of the court order giving the county care, custody, and control of the child, a certified copy of the birth certificate, and a certified copy of the death certificate, if appropriate.

Disabled Adult Child (DAC) Benefits

If the youth is in receipt of RSDI benefits when he/she approaches emancipation and the child has an SSI type disability, an application for DAC benefits should be considered.

- The application/assessment and appeals process is essentially the same as SSI;
- The disability which qualifies the youth for DAC must be established by the youth’s 22nd birthday.
- Regardless of the funding source, the youth can apply for RSDI at any time.
- If the youth is still in a foster care placement, the county will need to make arrangements for payment to the foster care provider as SSA automatically makes the child their own payee at 18.

Things to note regarding RSDI benefits:

- If the youth is receiving RSDI and the child goes home, the county should send any further payments back to SSA and not directly to the parent. If there is an overpayment, SSA will come to the county to collect if they were the payee.
- Parents may be eligible for an Emergency Advance Payment or an Immediate Payment from SSA when the child or youth returns home if it takes awhile for the check to “catch up” to the parent.
- The child may be eligible on the earnings records of both parents in which case SSA will pay the higher benefit. If this is the case, the county should work with SSA to ensure that SSA does not establish payments for the child based on the other parent’s earning record to a different payee.
APPENDIX A

The following three nonprofit agencies either are, or include projects which are specifically designed to respond to the legal and non-legal needs of former foster youth:

<table>
<thead>
<tr>
<th>The Alliance for Children’s Rights</th>
<th>Provides free legal services to youth who have emancipated from care with a range of legal matters including consumer problems and debt, sealing records, tickets and warrants, sibling visitation, Medi-Cal and other public benefit matters. Also offers a mentoring program for qualified youth.</th>
</tr>
</thead>
<tbody>
<tr>
<td>3333 Wilshire Boulevard, Suite 550</td>
<td></td>
</tr>
<tr>
<td>Los Angeles, CA 90010</td>
<td></td>
</tr>
<tr>
<td>(213) 368-6010</td>
<td></td>
</tr>
<tr>
<td>The First Place Fund for Youth</td>
<td>Assists youth ages 16 to 23 to access housing, education, and employment resources.</td>
</tr>
<tr>
<td>519 17th Street</td>
<td></td>
</tr>
<tr>
<td>Oakland, CA 94612</td>
<td></td>
</tr>
<tr>
<td>(510) 272-0979</td>
<td></td>
</tr>
<tr>
<td>Public Counsel</td>
<td>Helps youth exiting care to access government and other benefits.</td>
</tr>
<tr>
<td>610 South Ardmore Avenue</td>
<td></td>
</tr>
<tr>
<td>Los Angeles, CA 90005</td>
<td></td>
</tr>
<tr>
<td>(213) 385-2977</td>
<td></td>
</tr>
</tbody>
</table>

The following legal aid agencies offer legal and other assistance to indigent clients in need of help with homelessness, consumer fraud, bankruptcy, employment issues, landlord/tenant disputes, Supplemental Security Income, Medi-Cal and other benefit matters, and some family law and immigration. Staff attorneys, law students, and volunteer attorneys provide free or low-fee services to indigent clients. The range of services provided varies from agency to agency. Moreover, each agency may have multiple offices throughout the state. The numbers provided below are only the central listings for some of the major service providers:

<table>
<thead>
<tr>
<th>SOUTHERN CALIFORNIA</th>
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<tbody>
<tr>
<td>Bet Tzedek Legal Services</td>
</tr>
<tr>
<td>145 S. Fairfax Avenue</td>
</tr>
<tr>
<td>Los Angeles, CA 90036</td>
</tr>
<tr>
<td>(323) 939-0506</td>
</tr>
<tr>
<td>(818) 769-0136</td>
</tr>
<tr>
<td>Public Counsel</td>
</tr>
<tr>
<td>610 South Ardmore Avenue</td>
</tr>
<tr>
<td>Los Angeles, CA 90005</td>
</tr>
<tr>
<td>(213) 385-2977</td>
</tr>
<tr>
<td>Legal Aid Foundation of Los Angeles</td>
</tr>
<tr>
<td>1102 Crenshaw Boulevard</td>
</tr>
<tr>
<td>Los Angeles, CA 90019</td>
</tr>
<tr>
<td>(323)801-7989</td>
</tr>
<tr>
<td>Legal Aid Society of San Diego Inc.</td>
</tr>
<tr>
<td>110 S. Euclin Avenue</td>
</tr>
<tr>
<td>San Diego, CA 92114</td>
</tr>
<tr>
<td>(877) 534-2524</td>
</tr>
<tr>
<td>Organization</td>
</tr>
<tr>
<td>------------------------------------------------------------------</td>
</tr>
<tr>
<td>Inland Counties Legal Services Inc.</td>
</tr>
<tr>
<td>California Rural Legal Assistance, Inc.</td>
</tr>
<tr>
<td>Legal Aid Society of Orange County Inc.</td>
</tr>
<tr>
<td>Central California Legal Services</td>
</tr>
<tr>
<td>Greater Bakersfield Legal Assistance Inc.</td>
</tr>
<tr>
<td>Bay Area Legal Aid</td>
</tr>
<tr>
<td>California Indian Legal Services Inc.</td>
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<tr>
<td>Legal Services of Northern California</td>
</tr>
<tr>
<td>Law Foundation of Silicon Valley</td>
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<tr>
<td>Legal Aid of Marin</td>
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<tr>
<td>Organization</td>
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<td>---------------------------------------------------</td>
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<tr>
<td>Legal Aid Society of San Mateo County</td>
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<tr>
<td>Legal Aid Society of Sonoma County</td>
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<tr>
<td></td>
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<tr>
<td>Legal Services for Children</td>
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<tr>
<td>STATEWIDE</td>
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<tr>
<td>Protection &amp; Advocacy Inc. Administration</td>
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</tbody>
</table>
The following organizations provide free legal services and/or referrals for immigration services to indigent individuals. Some of these organizations may also charge a nominal fee for legal services to certain low income individuals.

<table>
<thead>
<tr>
<th>NORTHERN CALIFORNIA</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Asian Law Caucus</strong></td>
</tr>
<tr>
<td>939 Market Street, Suite 201</td>
</tr>
<tr>
<td>San Francisco, CA 94103</td>
</tr>
<tr>
<td>(415) 896-1701</td>
</tr>
<tr>
<td>Serves the San Francisco Bay area.</td>
</tr>
<tr>
<td><strong>Asian Pacific Island Legal Outreach</strong></td>
</tr>
<tr>
<td>1188 Franklin Street, Suite 202</td>
</tr>
<tr>
<td>San Francisco, CA 94109</td>
</tr>
<tr>
<td>(415) 567-6255</td>
</tr>
<tr>
<td>□ Willing to represent indigent aliens in asylum proceedings.</td>
</tr>
<tr>
<td>□ Provides legal services in the following languages: Cantonese, Japanese, Korean, Mandarin, and Vietnamese.</td>
</tr>
<tr>
<td><strong>Central American Resource Center</strong></td>
</tr>
<tr>
<td>(CARECEN)</td>
</tr>
<tr>
<td>1245 Alabama Street</td>
</tr>
<tr>
<td>San Francisco, CA 94110</td>
</tr>
<tr>
<td>(415) 824-2330</td>
</tr>
<tr>
<td>Mon.-Fri. 9 a.m.-5 p.m.</td>
</tr>
<tr>
<td>□ Language: Spanish.</td>
</tr>
<tr>
<td>□ Charges nominal fee.</td>
</tr>
<tr>
<td>□ Must meet (HUD) income guidelines for representation.</td>
</tr>
<tr>
<td>□ Will represent Latin American aliens in asylum cases.</td>
</tr>
<tr>
<td><strong>Catholic Charities Immigration Program</strong></td>
</tr>
<tr>
<td>2625 Zanker Road, Ste. 201</td>
</tr>
<tr>
<td>San Jose, CA 95134</td>
</tr>
<tr>
<td>(408) 944-0691</td>
</tr>
<tr>
<td>Mon.-Fri. 9 a.m.-5 p.m.</td>
</tr>
<tr>
<td>□ Languages: Spanish, Tagalog, Vietnamese, Italian, Portuguese, Mandarin.</td>
</tr>
<tr>
<td>□ Must meet low income guidelines for representation.</td>
</tr>
<tr>
<td>□ Will represent aliens in immigration cases.</td>
</tr>
<tr>
<td><strong>Immigration Law Clinic</strong></td>
</tr>
<tr>
<td>UC Davis School of Law</td>
</tr>
<tr>
<td>400 Mrak Hall</td>
</tr>
<tr>
<td>Davis, CA 95616-5201</td>
</tr>
<tr>
<td>(530) 752-6942</td>
</tr>
<tr>
<td>□ Language: Spanish.</td>
</tr>
<tr>
<td>□ Serves Davis, Yolo, Solano, and Sacramento within a 60-mile radius.</td>
</tr>
<tr>
<td><strong>International Institute of the East Bay</strong></td>
</tr>
<tr>
<td>449 15th Street, Suite 303</td>
</tr>
<tr>
<td>Oakland, CA 94612</td>
</tr>
<tr>
<td>(510) 451-2846</td>
</tr>
<tr>
<td><a href="http://www.iieb.org">www.iieb.org</a></td>
</tr>
<tr>
<td>□ Language: Spanish.</td>
</tr>
<tr>
<td>□ Will represent aliens in all types of immigration matters, except detention.</td>
</tr>
<tr>
<td>□ Will require proof of income.</td>
</tr>
<tr>
<td>□ Serves San Francisco Bay Area.</td>
</tr>
<tr>
<td><strong>La Raza Centro Legal</strong></td>
</tr>
<tr>
<td>474 Valencia Street, Suite 295</td>
</tr>
<tr>
<td>San Francisco, CA 94103</td>
</tr>
<tr>
<td>(415) 575-3500</td>
</tr>
<tr>
<td>□ Language: Spanish</td>
</tr>
<tr>
<td>□ May charge nominal fee.</td>
</tr>
<tr>
<td>□ Will represent aliens in asylum cases.</td>
</tr>
</tbody>
</table>
National Center for Lesbian Rights (NCLR)  
870 Market Street, Suite 370  
San Francisco, CA 94102  
(415) 392-6257  
(415) 392-8442 (FAX)  
- Represents lesbian, gay, bisexual, and transgender (LGBT) indigent aliens in asylum proceedings.  
- Assists LGBT aliens and immigrants in understanding visas, asylum claims, and HIV exclusion, and provides legal and practical strategies for bi-national couples.

Santa Clara University School of Law  
Civil Clinical Programs  
East San Jose Community Law Center  
1030 The Alameda  
San Jose, CA 95126  
(408) 288-7030  

<table>
<thead>
<tr>
<th>CENTRAL CALIFORNIA</th>
</tr>
</thead>
</table>

Catholic Charities  
250 West Orange Avenue  
El Centro, CA 92243  
(760) 353-6822  
- May charge a nominal fee.  
- Primarily able to represent non-detained aliens.  
- Will represent persons applying for asylum.

<table>
<thead>
<tr>
<th>SOUTHERN CALIFORNIA</th>
</tr>
</thead>
</table>

Catholic Charities  
435 S. Boyle Avenue  
Los Angeles, CA 90033  
(323) 264-6217  
Or  
14701 Friar Street Van Nuys, CA 91411 (818) 988-1332 or 1333  

Catholic Legal Immigration Network, Inc.  
Catholic Immigration Services  
1530 James M. Boulevard  
P.O. Box 15095  
Los Angeles, CA 90015  
(213) 251-3505  
(213) 487-0986, FAX  
- Can assist unrepresented detainees with filling out applications.

El Rescate Legal Services  
1313 West 8th Street, Suite 200  
Los Angeles, CA 90017  
(213) 387-3284  
Accepts collect calls Mondays 1:00 to 5:00 p.m.  
- Will not represent criminal aliens.
<table>
<thead>
<tr>
<th>Organization</th>
<th>Address</th>
<th>Phone Numbers</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immigration Center for Women and Children</td>
<td>634 South Spring Street, Suite 615, Los Angeles, CA 90014</td>
<td>(213) 614-1165, (213) 624-1163 FAX</td>
<td></td>
</tr>
<tr>
<td>International Institute of Los Angeles</td>
<td>435 S. Boyle Avenue, Los Angeles, CA 90033</td>
<td>(323) 264-6217 or 14701 Friar Street, Van Nuys, CA 91411 (818) 988-1332 or 1333</td>
<td>Cannot represent undocumented aliens. Representation is restricted to assisting legal permanent residents, asylees, special agricultural workers or others who have filed applications to adjust their status to legal permanent residents. Cannot represent aliens incarcerated due to criminal activity and/or criminal convictions.</td>
</tr>
<tr>
<td>Legal Aid Foundation of Los Angeles</td>
<td>1102 S. Crenshaw Boulevard, Los Angeles, CA 90019</td>
<td>(323) 801-7989 or 5228 E. Whittier Boulevard, Los Angeles, CA 90022</td>
<td>(213) 640-3881 Toll free telephone: (800) 399-4529</td>
</tr>
<tr>
<td>Legal Aid Society of San Diego</td>
<td>110 South Euclid Avenue, San Diego, CA 92114</td>
<td>Toll free: 1-877 Legal Aid (877-534-2524)</td>
<td>No charge. Will not represent asylum cases.</td>
</tr>
<tr>
<td>Los Angeles Center for Law and Justice</td>
<td>1241 South Soto Street, Los Angeles, CA 90023</td>
<td>(323) 980-3500</td>
<td></td>
</tr>
<tr>
<td>National Immigration Law Center</td>
<td>3435 Wilshire #2850, Los Angeles, CA 90010</td>
<td>(213) 639-3900 <a href="http://www.nilc.org">www.nilc.org</a></td>
<td>Class actions, publications, training and referrals to attorneys/advocates. Does not provide direct services.</td>
</tr>
<tr>
<td>San Fernando Valley Neighborhood Legal Services, Inc.</td>
<td>13327 Van Nuys Boulevard, Pacoima, CA 91331</td>
<td>(818) 896-5211</td>
<td>Cannot represent undocumented aliens. Representation is restricted to assisting legal permanent residents, asylees, special agricultural workers or others who have filed applications to adjust their status to legal permanent residents. Cannot represent aliens incarcerated due to criminal activity and/or criminal convictions. Cannot represent aliens at the Lompoc Federal Prison.</td>
</tr>
<tr>
<td>USC Law School Legal Clinics</td>
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<tr>
<td>699 Exposition Boulevard</td>
<td></td>
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<tr>
<td>Los Angeles, CA 90089</td>
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<td></td>
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<tr>
<td>(213) 740-9415</td>
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</tbody>
</table>
APPENDIX D

Social Security Benefits for Children: Focus on Issues Affecting Youth in the Dependency System

I. General Eligibility Criteria:

A. What are the basic eligibility requirements for Social Security benefits for children?

Supplemental Security Income (Title XVI of the Social Security Act): Children may be eligible for Supplemental Security Income (SSI) benefits if they meet the following criteria:

(1) Limited income;\(^2\) AND
(2) Limited resources;\(^3\) AND
(3) A resident of one of the 50 States, the District of Columbia, or the Northern Mariana Islands, and is not absent from the country for a full calendar month or more than 30 consecutive days; AND
(4) Citizen or national of the United States or certain categories of immigrant;\(^4\) AND
(5) Blind or disabled; AND
(6) Meets certain other requirements.

Retirement, Survivors, and Disability Insurance Benefits (Title II of the Social Security Act): A child may be eligible to receive Retirement, Survivors, and Disability Insurance benefits (RSDI) if s/he has a parent that has worked enough quarters to become insured for Title II and is disabled, deceased, or entitled to retirement benefits.\(^5\)

B. What types of disabilities qualify for Supplemental Security Income benefits?

There are different disability standards for adults (individuals 18 or older) and children (those under the age of 18).

In order for a child to meet the disability criteria, he/she must have a “medically determinable physical or mental impairment, or combination of impairments, that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months.”\(^6\) The Social Security Administration’s regulations outline the information considered in determining disability for children. Regulations outline how the SSA evaluates medical evidence, test scores, and information from other people (such as parents, other caregivers and teachers). SSA

\(^2\) The countable income must be below the SSI federal benefit rate.

\(^3\) Disabled children can have up to $2,000 in resources. In addition, for children living in the home of their parent(s), a single parent can have an additional $2,000 in resources and married parents can have up to $3,000.

\(^4\) The following categories of immigrants qualify for SSI benefits: (1) Noncitizens lawfully residing in the U.S. on August 22, 1996, (2) Legal Permanent Residents with 5 years of residency in the U.S. and parents with “40 quarters”, (3) Active duty military personnel and honorable discharged veterans, (4) American Indians born in Canada who were members of specified tribes, (5) Refugees (for up to 7 years from date of entry), (6) Asylees (for up to 7 years from date of entry), (7) Persons whose deportation is withheld (for up to 7 years from date of entry), and (8) Cuban/Haitian immigrants (for up to 7 years from date of entry).

\(^5\) 42 United States Code (USC) § 402(d)


Appendix D-1
considers how the child’s functioning compares to the functioning of children his/her age who do not have impairments, and how well the child can initiate, sustain, and complete activities, including the amount of help or adaptations the child needs, and the effects of structured or supportive settings.\(^7\)

The definition of disability for adults is defined as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of no less than 12 months.\(^8\)

The SSA publishes a “listing of impairments” which describes, for each of the major body systems, impairments that are considered severe enough to prevent an adult from doing any gainful activity or, for a child that causes marked and severe functional limitations.\(^9\)

C. Is the income of the other people in the youth’s household deemed available to the youth when determining eligibility for Supplemental Security Income?

When determining eligibility for SSI benefits for individuals under the age of 18, the Social Security Administration deems a portion of the income and/or resources of a parent who is living in the same household as if they were available to the youth, regardless of whether the income or resources are actually available to the individual.\(^10\) SSA also does this when a child is temporarily away at school, returns home during weekends, holidays or during the summers and remains subject to parental control.

Note – if the individual is not living with a parent, then this deeming rule does not apply, and the child is evaluated for eligibility based only on his or her own income.

II. The Application Process

A. Who May Apply for SSI Benefits on Behalf of a Foster Youth?

For youth under age 18, a court appointed representative or a person who is responsible for the care of the youth, including a relative, may sign and submit the application on the youth’s behalf.\(^11\) Thus, a county social service agency, relative, or court appointed representative may submit an SSI application on behalf of a foster youth.

B. When is an Application Considered Filed?

In general, an application is considered to be filed on the date it is received by an employee at any social security office.\(^12\) However, if certain conditions are met, the SSA will provide the youth with a protective filing date, which is established on the date of a filing of a written

\(^7\) 20 CFR § 416.924a.
\(^8\) 42 USC § 1382c(a)(3)(A) and (B); 20 CFR § 416.905.
\(^9\) The listings are available at 20 CFR § 404 (Subpart P– Determining Disability and Blindness, Appendix 1).
\(^10\) 42 USC § 1382c(f)(1); 20 CFR § 416.1160; Social Security Administration, Program Operations Manual System (POMS) SI 01310.145.
\(^11\) 20 CFR § 416.315.
\(^12\) 20 CFR § 416.325.
statement or on the date that an oral inquiry is made.\textsuperscript{13} This is important, because if an SSI application is approved, eligibility may be retroactive to the protective filing date. \textit{(SSI payments begin the month after the month of initial eligibility, 20 CFR 416.501)}

C. What is Included in an SSI Application and Evaluation of the Application?

When filing an SSI application there are various forms that are required to be completed in order to obtain medical and non-medical information. The information provided in the “Disability Report – Child”, which is available at: \url{http://www.ssa.gov/online/ssa-3820.pdf} is used to obtain medical and other records. However, the SSA does not rely only on the information contained in the Disability Report. The SSA also considers any medical or school records submitted along with the application, and requests medical records from the hospitals, doctors, and other treatment sources and information from the child's teachers, schools, and other people whom you listed as having information about the child's illnesses, injuries or conditions. In addition, the SSA uses forms to obtain information about an individual's functioning. These include the following reports, listed according to the report number the SSA uses:

SSA-5665: Teacher Questionnaire  
SSA-3881: Questionnaire for Children Claiming SSI benefits

The SSA relies on school records, hospital records, laboratory/imaging reports, outpatient notes, clinic notes, physician’s records and reports, cover letters from treatment source if medical evidence is not otherwise identified, x-ray findings, examination reports, medical opinions, and other relevant information.\textsuperscript{14}

III. Representative Payees:

A. Do Youth Receive the SSI Benefits Themselves?

Generally children do not receive SSI benefits themselves. A person or entity called a representative payee receives and manages the benefits for the youth.\textsuperscript{15} However, the youth may be able to receive the benefits directly in limited circumstances. For example, the SSA assumes that a youth between the ages of 15 and 17 is capable of managing his/her own funds, “unless he/she has a court-appointed legal guardian or is entitled to disability benefits and a substance abuse condition exists which indicates that he/she may need assistance.”\textsuperscript{16} Further, the SSA may make direct payment to a beneficiary under the age of 18 when:

(1) The individual is a parent and files for themself and/or their child and he or she has experience in handling his or her own finances; or
(2) Capable of using the benefits to provide for their current needs and no qualified payee is available; or
(3) Within 7 months of attaining age 18 and is initially filing an application for benefits.\textsuperscript{17}

\textsuperscript{13} 20 CFR §§ 416.501  
\textsuperscript{14} Available at: \url{http://www.ssa.gov/online/forms.html}.  
\textsuperscript{15} 42 USC § 1383(a)(2)(A); 20 CFR § 416.610; POMS GN 00502.005.  
\textsuperscript{16} SSA POMS GN 00502.070.  
\textsuperscript{17} 20 CFR § 416.610.
B. How is a Representative Payee Selected?

SSA generally tries to select a Representative Payee who will serve the best interests of the child. SSA is required to use “extreme care” in selecting and monitoring payees. SSA specifies a hierarchy of most and least preferred representative payees, but the hierarchy is flexible. Natural or adoptive parents who have custody of the child and guardians are the most preferred payee, and authorized custodial agencies are the last resort. In determining which payee will best serve the child’s needs, SSA will consider:

- The relationship of the person/entity to the child;
- The interest the person/entity shows in the child;
- Any legal authority the person/entity has to act on behalf of the child;
- Whether the person/entity has custody of the child; and
- Whether the person/entity is in a position to know of and look after the needs of the child.

California law also requires that counties only be selected as representative payee if no other appropriate person is available.

C. What are the Responsibilities of the Representative Payee?

Representative Payees are responsible for using benefits in the best interest of the youth. They must also notify SSA of changes in income or anything that might give the youth the right to receive benefits directly, and submit written reports accounting for the benefits if SSA requests them. Payees must also ensure that the youth is receiving medically necessary treatment for the condition that makes him/her eligible for benefits.

Under California Law, if the county serves as a child Representative Payee, the county must establish a no-cost, interest-bearing maintenance account for each child and credit interest to the account. The county must keep records of income and expenses on the account. The county may only use the SSI funds for the benefit of the child or purposes “determined by the county to be in the child’s best interest.” Payees are responsible for submitting annual reports to SSA about whether the benefits were spent or saved, how the benefits were used if they were spent, and who made the decisions about spending or saving benefits.

In addition, for youth that are emancipating from foster care, the county is also required to establish procedures for assisting the youth in receiving direct payment of their benefits or finding an appropriate successor payee and for gaining access to any accumulated benefits.

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18 42 USC § 1383; 20 CFR Part 416, Subpart F; POMS GN 00502.183.
21 California Welfare and Institutions Code (W&IC) § 13754.
22 20 CFR §§ 416.635(a) and 404.2035(a)
23 20 CFR §§ 416.635(b)-(c) and 404.2035(b)-(c).
24 20 CFR § 416.635(e).
25 W&IC § 13754(a); 20 CFR § 416.645 (federal law requires that any funds not needed for the beneficiary’s current maintenance must be conserved in accordance with the rules followed by trustees).
26 W&IC § 13754(a); 20 CFR § 416.645
27 W&IC § 13754(b); POMS GN 00605.350 (setting forth when a final accounting to SSA is not required).
28 W&IC § 13754(b); POMS GN 00605.350
However, the County should contact their local SSA Field Office before disbursing any conserved SSA/SSI funds.  

D. What happens if a Representative Payee uses funds improperly?

If a payee uses social security or SSI benefits for a purpose other than for the use and benefit of the child, misuse has occurred. If the payee misusing funds is a county or state social services agency, SSA will pay the misused funds to the child. SSA will require the agency to refund the misused funds to SSA, so they may be redistributed to the successor payee.

Misapplication occurs "when a payee knowingly uses dedicated account funds for expenditures not permitted." The difference between misuse and misapplication of benefits is that a misapplication occurs if the benefits are not used in the manner required by law, regardless of whether they are used to benefit the child. The payee is liable to SSA for the entire amount of the misapplied benefits. Misapplied benefits are returned to the SSA. The payee can appeal a finding that he or she has misapplied benefits.

IV. Conservation and Maintenance of Benefits

A. What is a dedicated account and when must one be established?

When a child with a Representative Payee is eligible for past-due benefits that are more than six times the monthly SSI/SSP rate, the past-due benefits must be paid into a dedicated account. This account is separate from the account used to manage the regular, monthly benefits paid on behalf of the child. This account must be used for specific purposes benefiting the child. These are:

- Medical treatment and education or job skills training;
- If related to the child's impairment(s), personal needs assistance; special equipment; housing modification; and therapy or rehabilitation; or
- Other items and services related to the child's impairment(s) that we determine to be appropriate. The representative payee must explain why or how the other item or service relates to the impairment(s) of the child."

Representative Payees must keep records of deposits and expenditures from the dedicated accounts, and submit them to SSA if requested. Most expenditures from dedicated accounts must be approved by field office staff.

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29 42 USC § 405(j)(3)(A); 20 CFR § 416.665; POMS GN 00605 et seq; POMS GN 00605.240.
30 42 USC 405(j); 20 CFR §§ 416.641 and 416.650; POMS GN 00604.et seq.
31 Public Law 108-203 (amends 42 USC 405(j)(5)).
32 POMS GN 00602.140.
33 POMS SI 02220.060.
34 POMS GN 00602.140.
36 20 CFR § 416.640; W&IC § 13754(c).
37 20 CFR § 416.640; W&IC § 13754(c).
38 POMS GN 00602.140.
The restrictions on use of dedicated accounts apply until the funds are gone or until the child is no longer eligible for benefits, whichever comes first. This means that the restrictions still apply:

- When a child turns 18, continues to be eligible and receives payments directly;
- If a new Representative payee is appointed; funds remaining in a dedicated account must be returned to SSA by the former representative payee. The new representative payee must establish a separate account into which SSA will deposit these funds; or
- During a period of suspension due to ineligibility or a period of eligibility for which no payment is due.  39.

B. What is a maintenance account and when must one be established?

When all or a portion of a youth’s monthly benefits are not needed for the youth’s current maintenance or reasonably foreseeable needs, the funds must be placed in a maintenance account for the youth. 40 Under California Law, if the county serves as a child’s Representative Payee, the county must establish a no-cost, interest-bearing maintenance account for each child and credit interest to the account. 41 The county must keep records of income and expenses on the account. 42 The county is also required to establish a procedure for disbursing the balance to the youth when they are released from care. 43 The county may only use the SSI funds for the benefit of the child or purposes “determined by the county to be in the child’s best interest.” 44

Dedicated accounts and maintenance accounts differ from one another. Dedicated accounts are only for retroactive awards that equal more than six times the monthly benefit. Further, dedicated account funds can only be used to meet the specialized needs of the child, and cannot be used for a youth’s current maintenance, including the cost of foster care. Maintenance accounts are accounts established to manage the monthly benefits of the youth. The Representative Payee should use the monthly benefit to provide for the current maintenance of the youth, including the cost of food, clothing, and shelter. Any remaining funds that are not needed to provide for the youth’s current maintenance must be conserved in a maintenance account. Maintenance account funds can be used for future living expenses, and are not restricted in the same way that dedicated account funds are.

C. How can a payee use a youth’s SSI or RSDI benefits to meet the youth’s needs?

Generally, a Payee must expend funds for the use and benefit of the child and in the child’s best interests. 45 The interests of the child is interpreted to mean providing the child with a minimum level of income for ordinary and necessary living expenses. 46 Using funds for the

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39 20 CFR § 416.640
40 W&IC § 13754(a); 20 CFR § 416.645.
41 W&IC § 13754(a).
42 W&IC § 13754(a)
43 W&IC § 13754(b)
44 W&IC § 13754(b)
45 20 CFR §§ 404.2035(a) and 416.635(a); POMS GN 00602 et. seq.
“current maintenance” of the child is in the child’s interest. This includes the cost of food, shelter, clothing, medical care and personal comfort items.\textsuperscript{47}

Funds that are not used for the child’s current maintenance or needed for reasonably foreseeable needs should be saved or invested on behalf of the child.\textsuperscript{48} When a payee invests a child’s benefits, the “[i]nvestments must show clearly that the payee holds the property in trust for the beneficiary.”\textsuperscript{49} U.S. Savings Bonds and deposits in an interest or dividend paying account in an institution insured under either Federal or State law are preferred investments.\textsuperscript{50}

D. Can a county use SSI or RSDI benefits to recoup the cost of foster care?

States may use social security benefits to recoup the cost of foster care. The use of RSDI and SSI benefits to reimburse the state for the cost of foster care does not violate a provision of the Social Security Act protecting benefits from “execution, levy, attachment, garnishment, or other legal process.”\textsuperscript{51} Using SSI payments to recoup the cost of foster care is considered “current maintenance.”\textsuperscript{52} Before a social agency can do this, it must follow SSA’s creditor-payee policy. A creditor payee must obtain SSA approval prior to using benefits for self-reimbursement, see GN 00602.030. SSA regulations requires proof that the beneficiary/recipient’s current and anticipated future needs have been met before any remaining past-due benefits can be applied to the foster care debt, CFR20 404.2040.

When the county is not the payee, the county cannot force the payee to turn over the child’s Social Security benefits. The Keffeler court notes: “it is true that the State could not directly compel the beneficiary or any other representative payee to pay Social Security benefits over to the State, [but] that fact does not render the appointment of a self-reimbursing representative payee at odds with the Commissioner's mandate to find that a beneficiary's 'interest ... would be served' by the appointment.”\textsuperscript{53} NOTE: See section V.A for rules pertaining to the accounting rules when a youth receives SSI and foster care benefits concurrently.

V. The Decision to Apply for Benefits When a Youth is in Dependency:

A. When should an application for Social Security benefits be made for youth in dependency?

Youth in the dependency system may be eligible for several different benefit programs at the same time, including:

- Federal foster care (Title IV-E of the Social Security Act)
- State foster care
- Kin-GAP
- TANF/CalWORKs

\textsuperscript{47} 20 CFR § 416.640.
\textsuperscript{48} 20 CFR § 416.645(a).
\textsuperscript{49} 20 C.F.R. §§ 416.645(a) and 404.2045(a).
\textsuperscript{50} 20 C.F.R. §§ 416.645(b) and 404.2045(b).
\textsuperscript{52} 20 CFR § 416.640(a).
• Adoption Assistance
• SSI
• RSDI

It is important to consider which benefits make the most sense for the youth, given factors such as the child’s circumstances, the needs of the family, the reunification plan, and the date they are expected to leave the state’s care.

In general, RSDI or SSI/SSP benefits can be highly beneficial for children in the state’s care because:

1. RSDI and SSI/SSP benefits are an important source of additional funds that can be used to meet the child’s individual needs while in the state’s care;
2. If the child returns home, the SSI benefits follow the child, providing essential benefits to the family;
3. The diagnostic evaluations that are done in assessing a child for potential eligibility for SSI/SSP and during the application process will improve the likelihood that the child or youth will receive timely and appropriate treatment;
4. SSI benefits can be conserved for youth to aid in their transition. The federal SSI rules permit a child to have up to $2,000 in resources before becoming ineligible for SSI. Ensuring that a child emancipating out of the state’s care transitions with that $2,000 can make the difference between having shelter and living on the streets.

The Child Welfare Policy Manual instructs individuals and agencies to carefully weigh the differences between Title IV-E benefits and SSI benefits, noting “the difference between Title XVI (SSI) and Title IV-E should be considered carefully by the decision maker when choosing whether to apply for either or both Title IV-E or SSI benefits on behalf of the child. Information regarding the benefits available under each program should be made available by the State Title IV-E agency so that an informed choice can be made in the child's best interest. To achieve this goal, Title IV-E agencies should exchange information regarding eligibility requirements and benefits with local Social Security district offices and establish formal procedures to refer clients and their representatives to the local Social Security district office for consultation and/or application when appropriate.”

VI. Choosing Benefits Programs and Managing the Child’s Income

A. Can foster children receive Title IV-E benefits and SSI or social security benefits concurrently?

Federal law permits the concurrent receipt of SSI benefits and Title IV-E foster care benefits, but the SSI benefits are offset dollar-for-dollar by the amount of Title IV-E benefits a youth

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54 Child Welfare Policy Manual (CWPM) is compiled by the Department of Health and Human Services, Administration for Children and Families, and includes all of the current and updated relevant federal policy issuances (Policy Announcements and Policy Information Questions). The CWPM “conveys mandatory policies that have their basis in Federal Law and/or program regulations. It also provides interpretations of Federal Statutes and program regulations initiated by inquiries from State Child Welfare agencies or ACF Regional Offices.” http://www.acf.hhs.gov/programs/cb/laws/policy.htm.
55 U.S. Dep’t of Health and Human Services, Administration for Children and Families, CWPM, Section 8.4D, Question 2.
receives. Thus, in practice, a youth can only receive both SSI and Title IV-E foster care if the SSI benefit is more than the IV-E payment. In this situation, the dollar-for-dollar offset will result in the child receiving the entire IV-E payment and an SSI benefit equal to the difference between the two benefits. The total benefit the child receives will not exceed the SSI rate.

In the event that the Title IV-E payment is greater than the SSI payment, the SSI will be reduced to zero, and the SSI benefits will be placed in suspense. After 12 consecutive months of benefit suspension for any reason, SSI benefits are terminated, and an individual must file a new application for SSI benefits.

There is no provision under federal law requiring SSI payments to be offset by state-only foster care benefits. However, California law counts SSI benefits as income to the youth resulting in the youth’s state-only foster care benefits being reduced by the amount of SSI benefits that the youth receives. State law also permits a county to supplement SSI benefits with state-only foster care benefits, as long as the youth is not otherwise eligible for federal foster care benefits.

B. Who Gets to Choose What Benefit a Foster Youth Receives?

California regulation provides that “a person or his/her representative who believes the application meets the eligibility requirements for more than one category of aid has the right to choose the type of aid he/she will apply for.” In the case of foster children, the County has care, custody and control of the youth, and therefore can choose between foster care benefits or SSI benefits, depending on which benefits best meet the individual needs of the youth. Counties are encouraged to “review the circumstances in each case to determine which options ensures the county, state and federal funds are expended in the most cost beneficial manner.”

The only limitation to the county’s choice of aid payment is in the case of foster children placed in the home of a relative caregiver. In order for a foster child who is placed with a relative to be eligible for foster care benefits the child must be “otherwise eligible for federal financial participation in the AFDC-FC payment.”

VII. Maintaining Eligibility for Social Security Benefits:

A. When and why would a youth’s benefits be suspended?

If the amount of income countable to the child exceeds the SSI payment, then the SSI benefit will be put in “suspense.” Suspension of payments due to ineligibility for benefits because of

56 CWPM, Section 8.4D, Question 1
57 CWPM, Section 8.4D, Question 1
58 CWPM, Section 8.4D, Question 1
59 20 CFR § 416.1323.
60 20 CFR § 416.1335.
61 Manual of Policy and Procedures (MPP) § 45-302.11.
62 MPP § 40-109.2
63 All County Information Notice (ACIN) I-65-91.
64 All County Letter (ACL) 94-42.
65 W&IC § 11402(a).
excess income is effective with the first month in which “countable income” equals or exceeds the amount of benefits otherwise payable for such month. This rule applies regardless of the month in which the income is received.66

SSI benefits can remain in suspense for 12 consecutive full calendar months. During the 12-month period, if countable income becomes less than the SSI benefit rate, then the SSI payment will be reinstated.67 Note. Resumption of payments is not automatic. The SSI recipient or representative payee must contact SSA to provide necessary information to re-establish eligibility before the 12 months expires.

B. When will benefits be terminated after they have been suspended?

In the event that SSI benefits remain in suspense for 12 full and consecutive months, then the SSI benefits will be terminated.68 This termination is effective with the start of the 13th month after the suspension began.

VIII. Important Considerations for Youth Transitioning Out of Foster Care:

A. How far in advance should an SSI application be made for a foster youth in order to ensure that benefits will be in place prior to the youth’s emancipation from foster care?

SSA takes several months to process SSI applications. According to statistics available on SSA’s website, the average application will be processed in 3-5 months.69 Thus, in order to ensure that a foster youth has a determination made prior to emancipating, it is important that the application be submitted at least six months in advance of emancipation.

However, SSA will not accept applications for SSI until the month before the month that an individual meets all of the eligibility criteria.70 This means that a child receiving Title IV-E benefits greater than the SSI benefit rate cannot apply for SSI (because he/she is not financially eligible) until the month prior to the Title IV-E benefits ending (usually when the youth turns 18). If that child applies for SSI more than 30 days prior to her 18th birthday, the application will be denied because of his/her receipt of IV-E.71 However, the SSA regulations and guidance only require that an individual meet all the factors of eligibility in one month during the life of the application.72 Once eligibility is established, a foster youth remains

66 20 CFR § 416.1323
67 20 CFR § 416.1323
68 20 CFR § 416.1335
70 POMS SI 00601.010; POMS SI 00830.410; POMS SI 00830.170(B); 20 CFR 416.330 and 20 CFR 416.335.
71 20 CFR § 416.203(b). The statute states “We determine that you are eligible for SSI benefits for a given month if you meet the requirements in § 416.202 in that month. However, you cannot become eligible for payment of SSI benefits until the month after the month in which you first become eligible for SSI benefits. In addition, we usually determine the amount of your SSI benefits for a month based on your income in an earlier month (see § 416.420). Thus, it is possible for you to meet the eligibility requirements in a given month but receive no benefit payment for that month.”
72 POMS SI 00601.009; POMS SI 00601.010 (“If the claimant meets all factors of eligibility in any month during the life of the application, the claimant can receive payment without filing a new application.”)
eligible for assistance, even if they are not receiving any SSI benefits, for 12 consecutive months. See the suspension rules in VI.A.

Because SSI applications take many months to be approved, a foster child whose application is filed a month in advance of his/her 18\textsuperscript{th} birthday will often not begin receiving benefits until months after he/she turns 18.

B. Do youth have to reapply for SSI benefits after they turn 18 in order to continue to receive SSI under the adult program?

The SSA conducts an Age 18 Medical Redetermination during the 1-year period beginning on the youth’s 18th birthday or, in lieu of a continuing disability review, whenever SSA determines that the case is subject to redetermination under the Social Security Act, to determine if the youth will remain eligible for SSI benefits under the adult rules.\textsuperscript{73} While the SSA is conducting the Age 18 Medical Redetermination, which can take several months, the youth remains eligible for SSI benefits.\textsuperscript{74} If the SSA determines that the youth is no longer eligible for benefits, they do not owe back any of the benefits that they received while the Age 18 Medical Redetermination was being conducted.\textsuperscript{75} However, if they want their benefits to continue while they appeal the notice terminating their benefits, then they would have to pay back the benefits they receive during the appeals period if they lose the appeal.\textsuperscript{76}

California law mandates that counties assist youth through the Age 18 Redetermination by “provid[ing] information to the youth regarding the federal requirement that the youth establish continuing disability as an adult, if necessary, in order for SSI benefits to continue beyond his or her 18th birthday [and] assist[ing] the youth, as appropriate in fulfilling the requirements [for establishing continuing disability].”\textsuperscript{77}

If, after the Age 18 Medical Redetermination, the SSA determines that the youth is no longer eligible for benefits, then the “normal cessation and termination rules apply. Disability ceases as of the date of the disability redetermination decision. Eligibility ends the last day of the second month following the month of cessation. As usual, benefits are paid for two months following the month of cessation if all other eligibility criteria are met.”\textsuperscript{78}

C. Once a foster youth emancipates, can they begin receiving direct payment of their SSI benefits?

The SSA determines whether or not a youth can receive direct payment of their benefits. A youth must show that he/she is mentally and physically able to manage or direct the management of benefits payments in order to SSA approve the youth application to be his/her own payee.

California law mandates that counties assist youth in receiving direct payment of their SSI or RSDI benefits by “provid[ing] information to the youth regarding the process for becoming his

\textsuperscript{73} 20 CFR $ 416.987
\textsuperscript{74} 20 CFR § 416.987(e).
\textsuperscript{75} 20 CFR § 416.987(e)
\textsuperscript{76} SSA Publication No. 05-10041, January 2006 ICN 459260, POMS DI 28080.100
\textsuperscript{77} W&IC § 13753(a) and (c).
\textsuperscript{78} POMS DI 23570.020
or her own payee, or designating an appropriate representative payee if benefits continue beyond his or her 18th birthday, and regarding any SSI benefits that have accumulated on his or her behalf [and] assist[ing] the youth, as appropriate in [becoming his or her own payee].”

D. If there are benefits available in a youth’s dedicated account and/or maintenance account at the time of emancipation, how are those benefits transferred to the youth?

In most cases, the SSA requires that a payee return the conserved benefits to the SSA, and the SSA will reissue them to the successor payee or directly to the beneficiary. Further, if a social agency is the payee and has served in that capacity for less than 12 months, the social agency is required to make a final accounting of the benefits to the SSA, including informing the SSA as to how the funds were used and whether there are any conserved funds left for the youth.

The SSA requires that a payee return the conserved benefits to the SSA, and the SSA will reissue them to the successor payee or directly to the beneficiary. Further, if a social agency is the payee and has served in that capacity for less than 12 months, the social agency is required to make a final accounting of the benefits to the SSA, including informing the SSA as to how the funds were used and whether there are any conserved funds left for the youth.

IX. YOUTH IN THE JUVENILE JUSTICE SYSTEM

A. What happens to a youth’s SSI or RSDI benefits if they are incarcerated?

Individuals who are incarcerated generally lose their SSI benefits. SSI benefits must be suspended once an individual has been incarcerated for one full calendar month. SSI benefits remain in suspense until the individual has been incarcerated for 12 full calendar months, at which point SSA terminates the benefits. If an individual is released prior to serving 12 months, the SSI benefits will be restored once the individual is released from jail or prison and determined by SSA to still meet the financial-eligibility requirements. Individuals who serve 12 or more months and have their SSI benefits terminated must reapply for benefits by completing a new application and going through a new disability determination.

Individuals who receive RSDI benefits also lose their benefits while they are incarcerated. As with SSI benefits, RSDI benefits are suspended after 30 days of incarceration. However, RSDI benefits remain in suspense for the entire period of incarceration, regardless of the amount of time served, and are reinstated upon release, to begin the month after the month of release.

Even in instances when benefits are not terminated, reinstatement of social security benefits can take weeks. When benefits are terminated and a new application is required, reinstating benefits can take months.

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79 W&IC § 13753(a) and (c).
80 POMS GN 00605.350
81 POMS GN 00605.380
82 POMS GN 00605.350
83 POMS GN 00605.380
B. If a youth is incarcerated, are there any procedures in place that would allow the youth’s SSI or RSDI benefits to start again immediately upon release, or does the youth have to wait until they are out of detention or prison before submitting a new application?

SSA has established procedures enabling local SSA offices to provide support to public institutions in assisting individuals in applying for benefits while still incarcerated. SSA will accept and process inmates’ applications months before the anticipated release date, and make prospective determinations of potential eligibility. This process is facilitated by a pre-release agreement between SSA and the corrections facility; although, an inmate is permitted to apply and have the application handled expeditiously without such an agreement.

A pre-release agreement is established, either formally or informally, between a corrections facility and SSA when both parties commit to engaging in certain activities to expedite the review of inmates’ Social Security applications. Under a pre-release agreement, the corrections facility agrees to:

- Identify individuals who could be released within 30 days after potential eligibility has been established;
- Refer only individuals who appear to meet the SSI categorical and income and resource criteria;
- Provide nonmedical information necessary for development of potential SSI eligibility;
- Provide current medical evidence for the blind and disabled consistent with the guidelines in SI 00520.920 B, and local Disability Determination Services (DDS) suggestions resulting from experience with the institution’s previous evidence submittals. This should include a statement of the claimant’s ability to handle funds;
- Provide the field office with the anticipated release date and any change which would result in release over 30 days after notice; and
- Notify the field office as soon as the individual is released. (SI 00520.910)

In return, SSA agrees to:

- Provide guidelines for the information requested from the institution (SI 00520.930, Exhibit 2);
- Help institutional and social services staff learn how to use the prerelease procedure;
- Provide an field office contact to assist the institution in applying prerelease procedures;
- Process claims and reinstatements timely in the field office, and identify cases to the Disability Determination Services (DDS) for prompt handling;
- Notify the institution of the determination promptly.
**DISCHARGE PLAN FOR YOUTH AGING OUT OF DFCS CUSTODY COUNTY DFCS**

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<th>CASE NUMBER:</th>
<th>DATE OF STAFFING: 12/18/2012</th>
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<td>UNDER 18 MO.</td>
<td>18+ MO. IN CARE</td>
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**NAME OF YOUTH:**

**DOB:** 1/1/1997

**DATE ENTERED CARE:** 8/10/2011

**PROPOSED DATE OF DISCHARGE:** 1/1/2013

**REASON ENTERED CARE:** No caretaker

**CURRENT PLACEMENT:** Foster Home of

**EDUCATIONAL LEVEL OBTAINED:** 11th

**NAME OF COMMUNITY/SUPPORT LINK:** MAAC, Twin Cedars

**RELATIONSHIP TO YOUTH:** Phone #

### SECTION 2: STAFFING

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<tr>
<td></td>
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**DISCHARGE MEDICAL DATE:** NOT YET COMPLETED

**IF NOT YET COMPLETED, WHAT IS THE PLAN?**

CM will ensure that has a medical exam prior to 1/1/2013

**NEEDS OF THE YOUTH:**

- needs to have a Georgia Identification Card.
- needs to have her basic needs met on an ongoing basis.
DISCHARGE PLAN FOR YOUTH AGING OUT OF DFCS CUSTODY
COUNTY DFCS

PLAN FOR YOUTH AT DISCHARGE:

HOUSING PLAN:

is currently residing in the foster home of home of __________ until age 21.

EDUCATIONAL/VOCATIONAL PLAN:

is currently attending High School. is maintaining honor roll status in school
and is in the 11th grade has a current IEP and anticipates graduating 2014.

will contact the Educational Advocate by 12/19/2012 and forward information to the MAAC
wishes to attend college after high school to study performing arts.

WILL CONTACT COUNTY AND NEEDS TO PARTICIPATE IN THE ILP. ILP WILL PROVIDE EDUCATIONAL
SUPPORT ON AN ONGOING BASIS.

EMPLOYMENT PLAN:

MAAC will assist __________ with job readiness skills and job search.

OTHER PLANS:

Counseling Services conducted a psychological evaluation on 12/11/2012 and recommendations are pending. __________ diagnosed Bi-Polar, PTSD and borderline intellectual functioning. And is currently prescribed

Once the recommendations are received the MAAC team will ensure that the recommendations are followed.

CM: I will take __________ to have a Georgia ID card by 12/28/2012

COMMENTS:

wishes to sign herself back into care to have the educational and financial support. __________ will sign herself back into DFCS care on 12/28/2012.

MAAC will continue to provide wrap around services for a year __________ will continue to be involved as a placement agency.

will also be a support in the stepping down process.
Adolescents, the Foster Care System, and the Transition to Adulthood: What Legal Aid Lawyers Need to Know

By Alice Bussiere, Jennifer Pokempner, and Jennifer Troia

Although foster care often evokes an image of young children, nearly half of all foster children are 11 years old or older, and a large number of youth who have suffered from abuse, neglect, or abandonment leave the child welfare system as teenagers.1 According to 2002 (the most recent) national data, 20 percent (56,360) of the 281,000 children who left foster care that year were 16 through 18 years old, 24 percent (67,388) were 11 through 15, and 2 percent (6,365) were 19 or older. The data also show that 19,509 young people (7 percent) left care through emancipation or “aging out” of the system (often at 18, when they no longer qualify for services).2

Teens who leave foster care face enormous challenges. Young persons who emancipate from foster care are more likely than other young ones to experience homelessness, unemployment, unplanned pregnancy, legal system involvement, substance abuse, and difficulty in obtaining basic services, such as health care.3 They are less likely to have a high school diploma, earn enough to support themselves, and go on to postsecondary education or training.4 Adolescents who leave foster care before emancipation and without a permanent placement face even greater obstacles.5

Legal aid advocates led early efforts to help youth aging out of foster care. In 1985 the Coalition for the Homeless and the Urban Justice Center joined with the law firm of Sullivan & Cromwell to file suit on behalf of New York City’s current and former fos-

1In 2002, of the 532,000 children in foster care, 17 percent (92,091) were 16–18 years old, 30 percent (158,290) were 11–15, and 2 percent (10,321) were 19 or older. U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, THE AFSCARS REPORT: PRELIMINARY FY 2002 ESTIMATES AS OF AUGUST 1 (2004), www.acf.hhs.gov/programs/cb/publications/afcars/report9.pdf.

2Id. at 3.

3E.g., Mark E. Courtney & Amy Divoky, Chapin Hall Center for Children, Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 19 (2005).


Adolescents, the Foster Care System, and the Transition to Adulthood

ter youth facing homelessness after being discharged by the courts from foster care. They won court orders that prohibited New York City from discharging youth without providing independent living skills training, required adequate supervision of discharged youth, and mandated state regulations governing the obligation to supervise foster youth who leave care. Since that victory, legal aid advocates have joined with other child advocates to improve the lives of teens in foster care and young adults who leave the system.

I. The Changing Approach to Helping Foster Youth

Ideas about how to help teens in foster care have evolved over the years. In 1987 the Independent Living Initiative under the Consolidated Omnibus Budget Reconciliation Act of 1985 provided federal funds to help train foster youth in independent living skills. Then, in recognition that young adults needed health insurance, a place to live, and help with education in order to succeed, Congress provided transitional Medicaid and federal funding for transitional services in 1999 and education and training vouchers in 2001. Recently youth development experts recognized that independent living skills and transitional services were insufficient and that older foster youth, like their younger peers, needed connections to caring adults. Child welfare, youth development, and legal professionals are increasingly looking more closely at adolescent development concerns and working to improve long-term planning strategies for older youth in foster care. A key to their success is the involvement of young people in foster care in planning for their own lives and improving the policies that affect them.

II. The Federal Framework

Federal law provides for both entitlement program mandates and flexible block grant funding aimed at improving the lives of foster youth.

A. Entitlement Programs: Title IV-E Foster Care and Medicaid

Title IV-E of the Social Security Act provides for federal financial participation in the cost of foster care for eligible children. States must comply with requirements designed to limit foster care stays and ensure that children receive appropriate care as conditions of receiving these funds. For example, according to federal requirements, states must reasonably try to prevent foster care placement, reunify families when reunifying them is safe, and make plans permanent for children who cannot return home. All children who

11See, e.g., REINA M. SANCHEZ, CALIFORNIA PERMANENCY FOR YOUTH PROJECT, YOUTH PERSPECTIVES ON PERMANENCY (2004).
13Id. § 671(a)(15); see also id. § 622(b)(10)(B)(iii).
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enter foster care have the right to a case plan that describes how the child welfare system will meet their needs. Long-term foster care placement is not an appropriate case plan goal, and each child’s case should be reviewed at least every six months at a permanency hearing after the child is in care for a year. If appropriate, case plans for youth 16 and older must include an independent living plan with a written description of programs and services that will help the youth prepare to make the transition from foster care. Although these provisions apply to every child in foster care, they have been underutilized for older children.

In 1999 Congress amended Title IV-E and Medicaid to meet the particular needs of older foster youth, as part of the John H. Chafee Foster Care Independence Act. The Act raised the asset limit for Title IV-E eligibility from $1,000 to $10,000, allowing the young to save more money for college and other expenses when they leave care. The Act also enabled states to be flexible in providing transitional Medicaid for emancipated youth up to age 21 by creating an optional eligibility group of “independent foster care adolescents.” States may set asset, resource, and income limits for this population. Although this category is optional to states, the Centers for Medicare and Medicaid Services encourage them to utilize the opportunity to help former foster youth.

B. The Chafee Foster Care Independence Program

A block grant, the John H. Chafee Foster Care Independence Act funds independent living and transitional services for current and former foster youth. (The funds are referred to as “Chafee” or “FCIA” funds.) States must design Chafee plans to meet the needs of teens who are likely to remain in foster care until 18 and provide ongoing support to youth aging out of care. As long as states meet minimum requirements, they may be flexible in designing the plans. Services must be available throughout the state, though not necessarily in a uniform manner; use objective eligibility criteria; and ensure fair and equitable treatment of recipients and young persons’ direct participation.

1842 U.S.C. § 672(a)(2003); Title IV-E requires children to meet the Aid to Families with Dependent Children (AFDC) criteria in place in 1996 when the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, 110 Stat. 2105, eliminated the AFDC program. This provision replaces the AFDC $1,000 asset limitation.
2242 U.S.C. § 677 (2003); other funding sources may be available to assist youth making the transition from foster care. See Sherman, supra note 4.
23Although Title IV-E requires independent living plans for youth 16 and older, see 42 U.S.C. § 675(1)(D), states may provide independent living services to younger foster children. UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, CHILDREN’S BUREAU, CHILD WELFARE POLICY MANUAL § 3.18, www.acf.hhs.gov/programs/cbs/policy/oji/displacementspolicy.html (hereinafter CHILD WELFARE POLICY MANUAL); 42 U.S.C. § 677(a)-6(b)(2)(A) (2003).
in designing their own program activities.25 Chafee Services to youth still in care must help them (1) make the transition to self-sufficiency; (2) receive the education, training, and services needed for employment; and (3) prepare for and enter postsecondary training and educational institutions.26 Services to youth aging out of care include (1) personal and emotional support through mentors and interaction with dedicated adults; (2) financial, housing, counseling, employment, education, and other appropriate support; and (3) education and training vouchers.27 Up to 30 percent of the funds may be used for transitional housing for former foster youth.28

A special allotment of Chafee funds is made for education and training vouchers.29 States may provide Chafee eligible youth, including youth adopted from foster care after age 16, with up to $5,000 a year to cover attendance costs at an institution of higher education.30 Young persons are eligible up to age 23 as long as they are enrolled in postsecondary education or training and are making satisfactory progress toward completion.31 The value of vouchers may be disregarded in determining the youth’s eligibility for other federally supported assistance as long as the total federal assistance does not exceed the cost of attendance.32

III. State and Local Initiatives

Federal laws and policies provide for some of the necessary framework to support youth in the child welfare system, but more must be done to ensure that young people are prepared to survive independently and have meaningful permanent relationships. Some states and localities have implemented policies and legislation to ensure compliance with or to supplement federal laws. These efforts include improved permanency and discharge planning, extension of court jurisdiction, and provision of housing, education, and other support.

A. Court Protocols, Practice, and Advocacy

Many legal obligations to ensure permanency for foster youth fall on child welfare agencies, but courts and child advocates also play a crucial role in enforcing legal protection provisions and engaging young persons who often feel forgotten by the child welfare system.

1. Improved Permanency and Discharge Planning

Although much attention has been focused on the permanency needs of infants and young children, permanency-planning requirements also apply to teens in foster care. Efforts are under way in several places to improve planning for

2542 U.S.C. § 677(2)(B), (b)(E), (b)(3)(H) (2003); The John H. Chafee Foster Care Independence Act also includes consultation, coordination, and nonsupplementation provisions, as well as data collection and outcome measurement requirements. 42 U.S.C. §§ 677(b)(3)(E), (F), (G), (d) (2), (e)(2), (f) (2003); to date, information has not been sufficient to gauge the effectiveness of independent living services. GOVERNMENT ACCOUNTABILITY OFFICE, supra note 24; id., GAO-05-25, FOSTER YOUTH: HHS ACTIONS COULD IMPROVE COORDINATION OF SERVICES AND MONITORING OF STATES’ INDEPENDENT LIVING PROGRAMS (2004).


27Id. §§ 677(a)(4)–(6), (b)(2).

28Id. § 677(b)(3)(B); Chafee funds may not be used for housing for youth under 18, but daily living expenses of eligible youth can be covered through IV-E foster care. Id. § 672.

29Id. § 677(c)(3), (h)(2); states may provide vouchers of up to $5,000 per year to cover the costs of attendance at an institution of higher education for Chafee eligible youth, including youth adopted from foster care after age 16. Id. § 677(i) (2). The value of vouchers may be disregarded in determining the youth’s eligibility for other federal or federally supported assistance as long as the total amount of federal assistance does not exceed the cost of attendance. Id. § 677(i)(5).

30Id. § 677(i)(2).

31Id. § 677(i)(3).

32Id. § 677(i)(5).
older youth, including how to renew or maintain connections with birth family and foster relationships with responsible adults, as well as promote adoption and guardianship when appropriate.\(^3^3\)

Some jurisdictions are implementing standards for permanency reviews and discharge hearings for older youth to increase the chances that these young persons will experience permanency and have the support they need upon discharge. Permanency guidelines established through policy, regulation, or practice standards can set clear and concrete expectations in individual cases and highlight needed changes in policy.

Key components of a protocol for permanency review hearings and discharge hearings are outlined in the California Youth Connections sidebar to this article. Courts in Philadelphia and Chicago, among other locations, are trying to implement these standards; and several states have integrated these concerns into laws or policies.\(^3^4\) For example, California strengthened permanency planning for older foster youth through legal requirements designed to ensure that no child leaves foster care without a lifelong connection to a committed adult.\(^3^5\) Social workers are required to identify individuals who are important to youth, including asking older ones who are important to them, and to help youth maintain those relationships if such relationships are consistent with their best interests.\(^3^6\) The law requires that agencies train child welfare professionals on the importance of maintaining relationships with individuals who are important to children in out-of-home placement, ways to identify those individuals (including, but not limited to, asking the child), and methods of supporting those relationships.\(^3^7\) The law also provides for inclusion of individuals important to the youth in the development of transitional-living plans.\(^3^8\) The courts oversee the child welfare agency’s efforts to maintain the child’s relationships and may issue appropriate orders to enable children to maintain them.\(^3^9\)

California has also implemented discharge criteria to ensure that young persons are better prepared when they are emancipated from foster care. Before a youth reaches the age of majority, the child welfare agency must verify that the youth has received certain services (such as assistance in obtaining transitional Medicaid or other health insurance, transitional housing, and applications for postsecondary training or education) and essential documents (such as a birth certificate, social security card, and identification card or driver’s license).\(^4^0\) If these requirements are not met, and if continued court involvement is in the best interest of the youth, the court can extend jurisdiction.\(^4^1\)

2. Youth-Focused Court Practice

Involvement of young people in the planning process that affects their lives helps

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\(^3^3\) To focus attention on adoption for older foster youth, the Adoption Opportunities Act includes an additional payment for adoption of older children as part of the adoption incentive program. Id. § 673b(d)(1)(C), (g)(5), (6). See also congressional findings, Pub. L. 108-145, § 2, 117 Stat. 1879; see, e.g., MARDITH J. LOUSSELL, CALIFORNIA PERMANENCY FOR YOUTH PROJECT, MODEL PROGRAMS FOR YOUTH PERMANENCY (2004); ALICE BUSSIERE, PERMANENCY FOR OLDER FOSTER YOUTH, FAMILY COURT REVIEW JOURNAL (forthcoming 2006).


\(^3^5\) Assembly Bill 408 (Cal. 2003), ch. 813, http://info.sen.ca.gov/cgi-bin/postquery?bill_number=ab_408&sess=PREV&house=B&site=sen.

\(^3^6\) This is mandatory for youth who are over the age of 10 and are in group care; and this is permissible for other youth. CAL. WELF. & INST. CODE §§ 16501.1(i), 366.1(g), 366.21(c) (West 2004).

\(^3^7\) Id. § 16206(c)(12).

\(^3^8\) Id. §§ 10609.4(b)(1)(E), (G).

\(^3^9\) Id. §§ 366(a)(1)(B), 366.1(g), 366.21(c), (g), (h), 366.22(a), 366.26(c)(3), 366.3(e)(2), (3), (f)(3), 391(b)(5).

\(^4^0\) Id. § 391; See also CALIFORNIA DEPARTMENT OF SOCIAL SERVICES, MANUAL OF POLICIES AND PROCEDURES 31-236, CAL. WELF. & INST. CODE § 10609.4(b) (West 2004).

\(^4^1\) CAL. WELF. & INST. CODE §§ 391(c), 303 (West 2004).
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ensure that plans are realistic and based on their real needs and aspirations. Involvement also helps dispel the experience of too many foster youth of feeling ignored and disempowered by the system that is supposed to serve such youth.

Youth-focused court practice is the hallmark of Benchmark Hearings held in Cook County Family Court. The hearings, which occur in addition to regular permanency review hearings, are scheduled for youth 16 and older upon referral of a caseworker, child advocate, or lawyer for the children and youth agency. They occur in a conference room instead of a courtroom and last about an hour. The hearings focus on interaction between the youth and the judge; all other parties give support and information. At the hearing, the judge and youth review the youth’s future plans and set concrete goals. They agree upon the youth’s responsibility for meeting the goals and enter into a contract that is reviewed at the next hearing. These hearings have been so valuable to older youth in Cook County that the court assigned one judge to hold all of them. This judge, who is knowledgeable about the resources and programs for older youth, helps young people obtain the services and assistance that they need to meet their goals. The judge has great rapport with young people and fully engages them at the hearings.

3. Promoting Permanency for Older Youth
A California Court-Appointed Special Advocate (CASA) program is conducting an Interdependent Living Pilot Program that assigns a volunteer to an older youth with the specific goal of achieving permanency for the youth. Funded through the Children’s Justice Act, the program involves current and former foster youth as advisors and trainers. CASA volunteers receive technical assistance and support, and, once the curriculum is finalized, they will receive training on adolescent development, experiences of youth in foster care, cultural transitions and independent living needs, and policies and resources to support emancipating youth. The program will evaluate whether CASA volunteers will have changed the overall outcomes of transitioning youth; if the results are positive, this model may be disseminated nationally.

4. Extending Juvenile Court Jurisdiction
Some young persons are just not ready to be on their own when they reach 18. Extended court juvenile court jurisdiction can provide them with the additional support that they need. More than half the states offer the opportunity for youth to stay in care past the age of majority; sometimes the states require that such youth meet basic education and employment requirements. This extra time to finish education or training, make stable housing arrangements, or obtain supportive services can significantly help youth make the transition to adulthood. However, federal law provides for a disincentive to the continuation of foster care because federal financial participation in foster care benefit payments is limited to youth under 18, or under 19 if students are expected to complete school or training by their 19th birthdays. This funding cutoff pressures states to terminate jurisdiction before young people are ready to survive on their own. However, thoughtful jurisdictions recognize that support for foster youth is cost-effective compared with the costs of homeless shelters and other negative outcomes such as those described above.

42Some states provide a statutory right for youth of a certain age to receive notice of court hearings and participate in proceedings. See, e.g., id. §§ 290.1(a)(4), 290.2(a)(4), 349, 399.
43Court-Appointed Special Advocates are volunteers appointed by the court to advocate on behalf of children who have been removed from their homes. They investigate the child’s circumstances, ensure that services are provided, and advocate the child’s best interests.
45American Bar Association Center on Children and the Law, Continuing Jurisdiction in Support of 18 to 21-Year-Old Foster Youth (Howard Davidson ed., 2004) (on file with Alice Bussiere).
B. Enhanced Placement and Housing Options

Although the child welfare system’s goal is to find permanency for youth through a stable living arrangement with caring adults, some young people remain in the system a long time, often in congregate care or institutional settings that do not prepare them for living on their own or maintaining close relationships. Some child welfare agencies are responding to these situations. Connecticut now provides a comprehensive range of adolescent services to give young people increasing freedom and responsibility as they get older. The continuum moves from small adolescent group homes to transitional-living apartments with a few other youth and a resident advisor, all the way to a housing subsidy and case management for young persons to live on their own. The Adolescent Services Unit provides a mentoring program for older youth. This continuum is a dramatic departure from the common practice of imposing more restrictions on older ones in foster care, especially if they make mistakes or errors in judgment. However, Connecticut’s model is consistent with adolescent development research, which highlights the need for youth to test boundaries and learn from mistakes; the research also notes that excessive limitations lead to rebellion rather than compliance.

1. Providing Supportive Housing

Many young persons in foster care urgently need supportive housing, which can help them secure a place to live and manage a budget that includes rent. Supportive housing can also provide case management and other services. Since most young persons in foster care do not attend college, few structured programs help them meet their housing needs. Even for such young persons who are college-bound and can live in school housing, that housing is not always available, particularly during vacations and summer break.

Limited federal funds are available to meet these transitional housing needs. Still, several states, noting the importance of stable housing to youth aging out of the system, have implemented innovative programs with the funds that are available. For example, Illinois uses a portion of its FCIA funds to run the Youth Housing Assistance Program. Caseworkers can refer youth to the program six months before emancipation. Services include help finding a place to live, budgeting, and finding community resources; financial assistance for start-up costs; a partial housing subsidy to help with rent for up to twelve months when housing costs exceed 30 percent of the youth’s income; and cash assistance to help deal with emergencies.

In 2001 the California Youth Connection, an organization of current and former foster youth, initiated the Campaign for Safe Transitions: Housing for Former Foster Youth. The centerpiece of this campaign was Assembly Bill 427, which created a Transitional Housing Placement Program and a dedicated stream of funds called the Transitional Housing for Foster Youth Fund. Counties apply and must provide 60 percent of the funds, while California provides a 40 percent match. Nine counties participate in this program, and advocates are optimistic about expansion, although they must fight budget pressures.

47 See, e.g., FREUNDLICH, supra note 10.
48 See www.state.ct.us/dcf/Policy/Adoles42/42-1.htm for more information on Connecticut’s Department of Children and Families Adolescent Services.
50 For more information, see Youth Housing Assistance Program 2002, www.state.il.us/DCFS/docs/YouthH.pdf.
51 For information on California Youth Connection, see www.calyouthconn.org; see also sidebar.
52 CAL. WELF. & INST. CODE §§ 11403.1, .4 (West 2004).
2. McKinney-Vento Homeless Assistance Act Funds

The Stewart B. McKinney Homeless Assistance Act, known as the McKinney-Vento Act, provides funding for states, localities, and nonprofit organizations to address the housing and service needs of homeless individuals.\(^{53}\) Administered by the U.S. Department of Housing and Urban Development (HUD), the Act can fund supportive housing that is transitional or permanent or both, in addition to other housing options to address the needs of special population groups, such as those with mental health concerns.

States divide themselves into regions, and sometimes large cities, to apply for funding. Applicants must first develop a continuum-of-care plan. HUD defines this as “a community plan to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency.”\(^{54}\) The plan must (1) identify population groups at risk of becoming homeless and (2) develop strategies to prevent homelessness. Communities should include the housing needs of older youth leaving the child welfare system in their plans because of these young persons’ high risk of becoming homeless. Young persons in foster care and their advocates have successfully encouraged some regions or cities to make this population a priority concern. For example, Philadelphia County’s plan designated youth leaving care as a priority population for the next fiscal year.

Advocates can also encourage agencies with expertise in working with young adults (e.g., child welfare agencies and private providers of independent living or child welfare services) to apply for McKinney-Vento funds. These applicants often must match some of the federal funds as a condition of applying for HUD funds for housing. Through that process, McKinney-Vento provides for an opportunity for children and youth agencies to partner with housing agencies to meet the needs of their mutual clients.

C. Education Assistance

Although young people in foster care struggle against enormous odds to get a good education, most of them want to achieve postsecondary education or training.\(^{55}\) However, frequent placement moves and lack of coordination among agencies prevent many foster youth from even finishing high school.\(^{56}\) A significant number of them are also eligible for special education services and may face even greater challenges.\(^{57}\)

Some states have passed statutes to increase educational opportunities for foster youth. In California, Assembly Bill 490, sponsored by California Youth Connection, requires that placement decision makers take the child’s educational needs into consideration, permits foster children to remain in their school of origin for the remainder of the school year even if they are placed out of the district, mandates prompt transfer of education records and immediate enrollment if the child must change schools, and requires school districts to appoint an educational liaison for foster children to facilitate placement, enroll-

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55\ Studies indicate that less than half of foster youth leave care with jobs or a high school education. See, e.g., McMillen & Tucker, supra note 5. Foster youth are more likely to be held back in school, suspended, or expelled than their peers. See, e.g., Mark E. Courtney et al., CHAPIN HALL CENTER FOR CHILDREN, MIDWEST EVALUATION OF THE ADULT FUNCTIONING OF FORMER FOSTER YOUTH: CONDITIONS OF YOUTH PREPARING TO LEAVE STATE CARE 42 (2004); J. Curtis McMillen et al., Educational Experiences and Aspirations of Youth in Out-of-Home Care, 82 CHILD WELFARE JOURNAL 475 (2003).


ment, and efficient transfer of records.58

The law also emphasizes the right to the least restrictive school placement, including attendance at a mainstream school when such attendance is in the best interest of the child, requires schools to give students full or partial credit for completed work, and prohibits schools from penalizing students for absences because of attendance at court hearings or court-ordered activities.59

Other advocacy and educational support efforts are under way to help foster youth attain their goals. In New York City, Advocates for Children’s Project Achieve provides individual advocacy to clients of a private child welfare agency and trains agency staff and birth and foster parents on school-related issues.60 In Alameda County, California, a collaboration between Protection and Advocacy and the CASA program resulted in an Equal Justice Works fellowship project that trains and matches educational surrogates to older foster youth.61 Gateway to College programs in Portland, Oregon, serve at-risk high school students and dropouts aged 16–20. The programs are being replicated in other sites around the country.62 Some colleges and universities also provide support programs specifically targeted to help foster youth have a successful college experience.63

California Youth Connection was also instrumental in advocating legislation designed to inform young people in foster care about their options for postsecondary education and to encourage schools to support them. Young people who are in foster care in California and are over 16 have the right to information about available educational options, including coursework necessary for vocational and postsecondary educational programs and financial aid for postsecondary education.64 State law also provides for California state universities and community colleges to work with child welfare agencies to encourage foster youth enrollment and provide technical assistance on admissions and financial aid applications. The law requires university trustees and the California Community College Board to assure basic student housing during the regular academic school year (including vacations and holidays), provide technical assistance and advice to campuses on how to improve services to emancipated foster youth, and track the retention rates of students who voluntarily disclose their status as emancipated foster youth.65

The problems addressed by the New York legal aid advocates who brought Palmer v. Cuomo in 1985 have not been resolved. Older adolescents leaving foster care still face tremendous obstacles as they make the transition to adulthood. However, the increasing focus on improving foster care and permanency planning for adolescents, providing them with independent living skills, and giving them the support that they need as they make the transition out of care is cause for optimism. The programs highlighted here are a few examples of innovative solutions that communities are creating and enacting in efforts to change the tide.

Authors’ Acknowledgment

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60Advocates for Children, supra note 57.
62Information on the Gateway to College Program, funded by the Bill & Melinda Gates Foundation, can be found at www.gate-waytocollege.org/replication.htm.
The juvenile court has the opportunity—and a special obligation—to ensure that young persons entrusted to the state’s care have the support that they need to leave, usually at 18, the foster care system (“aging out” of care), as self-sufficient, healthy, and productive adults. Advocates can and should aid the court in meeting this obligation by proposing the implementation of a court protocol so that the court may hold accountable all parties working with the youth for achieving positive outcomes for older youth in foster care.

While the youth is still in the state’s care, the youth’s family service plan lays out the family’s permanency goals—such as reunification or adoption—and the persons or entities responsible for providing services to meet the goals. For adolescents who are in the child welfare system and are 16 and older, the family service plan must include independent living goals, which ensure that the adolescents can make a successful transition to adulthood from the child welfare system. The child welfare agency must revise the family service plan at least once every six months and involve all interested parties.

At permanency review hearings, which the court holds for all youth in state child welfare systems, the judge must ensure that the appropriate permanency goals are in place for the family and that those goals are in progress. Under federal law, the court also must make findings of what services are needed to help a youth 16 and older successfully make the transition to adulthood. (42 U.S.C.A. § 675 (1)(D) (1994).)

However, the child welfare system and the courts often overlook youth older than 16 in state care. The caseworker, youth, family, service providers, and attorneys for the parties can address at family service plan meetings many issues related to older adolescents’ well-being and independent living skills. Implementing a court protocol is an additional strategy to leverage the court’s authority and power to ensure that older adolescents receive the services that they need. All stakeholders—child and family advocates and attorneys, parents, child welfare professionals, court personnel, and youth—can design the court protocol, which fleshes out how older youth can achieve permanency and independent living skills. The judge reviews the protocol orally in court or requires the child welfare worker to submit the protocol to the court or at the permanency review hearing. An essential aspect of the protocol is that it establishes the court’s expectations for the permanency and preparation for the transition to adulthood services that the child welfare agency is to provide for older youth.

While no protocol can cover all the needs of a youth, the following are key areas that it should cover.

At permanency review hearings for older youth still in the state’s care, the court should ensure that the youth has the following:

- An appropriate permanency goal and plan (the child welfare agency must have made reasonable efforts to finalize an appropriate permanency plan).
- Visitation with family, including siblings.
- Connections with caring adults (e.g., family and mentors).
- The least restrictive, most familylike placement.
- An appropriate independent living plan that identifies service needs and includes an assessment of the youth’s progress in areas such as education; vocational training, employment, and career planning; home management and daily living skills; budgeting and financial planning; housing planning; and reproductive health and planning.

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Health and mental health needs identified and met.

Current educational needs identified and met.

Support in planning for future educational needs—including postsecondary education and training and financial aid—and an assessment of the youth’s progress.

Vocational training and employment and career planning needs met.

Special needs identified and the involvement of agencies—such as the Office of Vocational Rehabilitation, Office of Mental Retardation, or Office of Mental Health—required to meet those needs.

Other individual needs met—such as ensuring that young people do not leave the child welfare system without resolving their immigration status. (Youth in the dependency system may be eligible for Special Immigrant Juvenile Status, 8 U.S.C. § 1101(a)(27)(J) (2003). This status affords a route to lawful immigration status and should be considered for all young people who are in the child welfare system and have no lawful immigration status. See generally Darryl L. Hamm, Special Immigrant Juvenile Status: A Life Jacket for Immigrant Youth, 38 CLEARINGHOUSE REVIEW 323 (Sept.–Oct. 2004).)

When a youth is discharged from the child welfare system at 18 or older, the court should ensure that the youth has the following:

- Information on the youth’s right to continue in foster care (e.g., placement and services) if there is such a right under state law.
- Information on the right to receive, under the Chafee Foster Care Independence Act, 42 U.S.C. § 677 (1999), independent living services, including room and board services and Medicaid, until age 21 (if the jurisdiction has opted to extend Medicaid eligibility).
- A stable place to live that the youth can maintain.
- A plan for education or training and assistance in obtaining financial aid.
- A plan for employment or vocational training or both.
- Medical insurance and a plan for obtaining needed treatment.
- Services in place to meet any special needs (including establishing Supplemental Security Income eligibility and services through the Office of Mental Retardation and Office of Mental Health).
- All necessary documentation, such as social security card, birth certificate, high school diploma, driver’s license, or a state identification card.

If the youth is under 21 and the youth and the child welfare agency have not achieved any component of the discharge plan, the court should not discharge the youth and should enter orders to make sure that an appropriate and viable discharge plan is accomplished before the youth is released from the state’s care.

For more detailed information on how to aid the court at permanency and discharge hearings, see Jennifer Pokempner & Lourdes M. Rosado, Juvenile Law Center, Dependent Youth Aging Out of Foster Care: A Guide for Judges (2003), and Dependent Youth Aging Out of Foster Care in Pennsylvania: A Judicial Guide (3d ed. 2003). Both publications are available at www.jlc.org/home/publications.

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California Youth Connection: Organizing Foster Youth for Change

In most of the country, one very important party is absent from foster care policy making: foster youth. Although every aspect of foster children’s and youth’s lives is fundamentally affected by child welfare policy, policymakers often make assumptions about what is best for these young people without ever talking with them or hearing their stories. In California, for almost twenty years, young people in foster care have been working diligently through the California Youth Connection, a nonprofit leadership and advocacy organization of current and former foster youth, to remedy this injustice by becoming equal partners in foster care policy development.

With twenty-two county-based chapters and more than 400 members, the California Youth Connection works on the local and state levels to educate legislators and policymakers about how policies and programs affect foster youth. Through this organization, young people 14–24, currently or formerly in foster care, are trained in public speaking, organizational skills, policy and strategic thinking, media advocacy, and the legislative process. They then use those skills to collaborate with policymakers to influence every aspect of foster care and those who make law and policy concerning it. The organization’s advocacy efforts have shattered the stereotype that young people in foster care are too young and inexperienced to participate in policy making and have shown that such young people themselves are in the best position to advise the foster care advocacy community about what works and what does not.

Over the years, the efforts of California Youth Connection members have resulted in many changes in child welfare policy, including creation and expansion of transition programs, increased protection of sibling relationships, a foster youth bill of rights, a state foster care ombudsman office, and efforts to ensure that no foster youth leaves care without a permanent lifelong connection with a caring adult. Last year the organization’s members took on the difficult task of improving educational outcomes for foster youth who must attend nonpublic schools. Many young people in foster care were forced to attend nonpublic schools operated by their group homes as a condition of placement in group homes, out of convenience for the provider, or because they had been labeled as having emotional and behavioral problems. Foster youth complained that the nonpublic schools provided a substandard education and that young people in foster care were denied access to basic educational services. Furthermore, attending school within the group home led young people to feel that they were isolated and that the focus of school was behavior management.

Young people in foster care visited with every state legislator to share their experiences and recommendations to reform nonpublic schools. These recommendations were formally introduced in Assembly Bill 1858. (A.B. 1858, 2004–2005 Sess., Reg. Sess., ch. 914 (Cal. 2004), available at http://info.sen.ca.gov/pub/03-04/bill/asm/ab_1851-1900/ab_1858_bill_20040930_chaptered.pdf.) A.B. 1858 is now law and improves the quality of nonpublic schools by (1) requiring students to have access to a standards-based curriculum and the same instructional materials, qualified teachers, college preparatory coursework, and extracurricular activities available to students at public schools and (2) mandating that nonpublic schools be monitored and held accountable as are public schools to ensure that they are offering appropriate educational services and that students are progressing adequately. Skeptics of the ability of foster youth to participate in foster care reform efforts need only look at A.B. 1858, as well as the California Youth Connection’s other accomplishments in California, to realize how critical and powerful foster youth involvement in policy making is.

Jennifer Rodriguez
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We invite you to fill out the comment form at http://tinyurl.com/JulyAugustSurvey.

Thank you.
—The Editors

COMMENTS?

Postforeclosure Evictions

Equity at Defense in Foreclosures

Court-Fee Waivers

ADA Amendments Act of 2008

Net Worth and Networking Online

Eviction and Domestic Violence Survivors

Help for Foster Youths

Women Who Are Poor in Retirement

Expanding Health Care Access

Comments?

Postforeclosure Evictions

Journal of Poverty Law and Policy
Youths who age out of the foster care system face enormous challenges. The number of children in foster care has declined over the last decade, but the proportion who ages out of care, rather than being reunited with families or finding a permanent home through adoption or guardianship, has grown. Last year Congress passed a new federal law that creates opportunities for states to help youths who turn 18 while in foster care. The Fostering Connections to Success and Increasing Adoptions Act of 2008 is an omnibus child welfare law to improve the well-being of children in foster care and provide them with greater permanence. The Act allows states to continue federal Title IV-E foster care benefits until a youth turns 21 and provides other tools to increase permanency for older youths in foster care. The goal is to strengthen support for youths in foster care and reduce the negative outcomes that many youths experience upon being emancipated from the child welfare system. Recent research suggests that, for young adults after they leave state care, these provisions will help reduce poverty and homelessness and increase earning capacity over
their lifetime.6 Here we focus on the Act’s provisions that most directly affect older youths; however, the Act contains many provisions with a positive impact on foster youths of all ages.7

Most youths do not automatically become self-sufficient on their 18th birthday; many continue to rely on family support into their 20s or later.8 Youths in foster care face even greater challenges than youths who become legal adults while living with their families.9 Recent research confirms that a few additional years of foster care support give many youths a better chance at educational and economic success. A longitudinal study of foster youths as they age out of care is following youths in foster care at ages 17, 19, and 21 in Illinois, Iowa, and Wisconsin.10 In Iowa and Wisconsin youths are routinely discharged from foster care at 18, whereas in Illinois youths may remain in care until 21. The study has already identified statistically significant differences in educational achievement and income between youths in Illinois and their peers in Iowa and Wisconsin. For example, Illinois foster youths were four times more likely to have ever attended college and three and a half times more likely to have completed at least one year of college. Study data also suggest that each additional year in care is associated with an increase of $924 in annual earnings, and remaining in care is associated with a 38 percent reduction in the likelihood that a woman would become pregnant by age 19.11 A recent study of a proposal to allow California youths to stay in foster care past 18 concludes that every dollar spent for youths in care between 18 and 21 would increase work-life earnings by $2,400 for youths who complete college.12

Financial Support Past the Age of 18

The Fostering Connections to Success and Increasing Adoptions Act allows states to receive Title IV-E funds to help pay foster care costs for eligible youths up to age 21 beginning on October 1, 2010.13 States may set the upper limit at 19, 20, or 21 for youths in foster care who are (a) completing secondary education or a program leading to an equivalent credential; (b) enrolled in a postsecondary or vocational educational institution;...
Work with older youths in foster care has broadened the idea of permanency. While legal permanence through adoption or guardianship is important for some youths, others caution against placing too much emphasis on the legal relationship. The key is involving youths in decision making and creating permanency plans that fit their individual circumstances, needs, and goals.

Projects in several states demonstrate that there are components of permanency that extend beyond securing a legal relationship. For example, to get older youths into permanent situations, Project Uplift, a Colorado initiative, has a scale for evaluating permanency, using four outcomes: (1) relational permanency—a parenting relationship between a youth and an adult; (2) relational/physical placement—a parenting relationship that is between a youth and an adult and that is also a physical placement; (3) relational/legal status—a youth-adult parenting relationship that has a legal status; and (4) relational/physical/legal—a parenting relationship that is between a youth and an adult and that involves a physical placement with a legal status.

The Emancipated Youth Connections Project, a California pilot, assisted twenty young adults who spent an average of 11.5 years in foster care and left without a permanent connection to a caring adult. Project participants made 181 new permanent connections—139 new permanent connections with biological family members and 42 new permanent connections with nonrelated adults. The project was successful due to an emphasis on having youths determine how.

Permanency Plans for Older Youths.
Courts and child welfare professionals recognize the importance of permanency for older youths and have rejected the idea that independent-living skills and permanency are mutually exclusive. Work with older youths in foster care has broadened the idea of permanency. While legal permanence through adoption or guardianship is important for some youths, others caution against placing too much emphasis on the legal relationship. The key is involving youths in decision making and creating permanency plans that fit their individual circumstances, needs, and goals.

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(c) participating in a program or activity promoting, or removing barriers to, employment; (d) employed for at least eighty hours per month; or (e) incapable of doing any of these activities due to a medical condition. Some states already support youths in foster care past the age of 18 with state funds. These states may now claim Title IV-E funds for part of the cost of care for eligible youths. States that discharge them before age 21 now have an incentive to allow them to stay in care because states may defray part of the cost with Title IV-E funds.

Permanency Planning and Court Oversight

The Fostering Connections to Success and Increasing Adoptions Act adds to the federal mandates a transition plan requirement for children aging out of foster care such as permanency planning, specific case plan requirements, a case review system, and procedural protections to ensure that youths are consulted by the court in an age-appropriate manner about decisions that affect their lives. When implementing these provisions for youths 18 and older, states must maintain the support and oversight required by Title IV-E but should adapt agency and court procedures to take into account the developmental level and legal rights of these youths, who are legally adults.

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18Mark E. Courtney et al., Foster Youth Transitions to Adulthood, 80 CHILD WELFARE 685, 696 (1998); Reina M. Sanchez, California Permanency for Youth Project, Youth Perspectives on Permanency (2004), www.cpyp.org/Files/YouthPerspectives.pdf.
solves these problems with permanency is by requiring states to help youths create a transition plan ninety days before leaving care. The caseworker must assist and support the youth “in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, and is as detailed as the child may elect.” This requirement ensures that the transition plan contains substantive and concrete elements to help the youth face an adult world. The plan should also consider the provision of services to meet any of the young adult’s special needs. Part of the case review system, the transition plan should be integral to ongoing independent-living and permanency planning. Because a youth’s exit from the care and custody of the child welfare agency has legal consequences, we recommend that the court approve the transition plan.

Whether the transition plan can prepare youths for discharge depends on how states implement it. To comply with the Fostering Connections to Success and Increasing Adoptions Act’s transition provision, most states have to amend state statutes or court rules or both and update child welfare regulations and policies. A strong transition policy should require transition planning to begin earlier than ninety days before discharge, court approval and oversight of the plan, and discharge criteria to eliminate inappropriate termination of court jurisdiction. Advocates can help implement and enforce their states’ implementation and

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20 Planning for youths with special needs must begin earlier than ninety days before discharge. A new Fostering Connections to Success and Increasing Adoptions Act provision may help ensure more proactive planning for youths with special needs: the Act requires that the state submit a plan for the ongoing oversight and coordination of health care services for youths in foster care (42 U.S.C.A. § 622(b)(15)(A)). This provision has particular importance for youths who are at an age when they can or want to transition out of state care to be more independent. Among the elements of a state plan are a schedule for health screenings (how needs are to be identified and met, how health information is to be monitored and shared, how use of prescription medications is to be overseen, and how continuity of care is to be maintained) (id.). Advocates should take part in the development of this plan and ensure that the plan’s provisions for continuity of care describes how such care is to be coordinated and arranged for youths being discharged from the child welfare system but still needing services. Advocates should insist that coordination with organizations that provide services to adults who used to be in the foster care system be a part of the state plan.

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22 Id.
enforcement of the Act’s federal transition requirement. Two models, for example, are New York’s requirement that specific plans for housing, employment, income, and adult connections be documented before a youth can be discharged from care and California’s requirement that the child welfare agency take specific actions before the court terminates jurisdiction.24

Court Oversight. The court monitors case plans and permanency planning throughout dependency cases, and federal law requires court oversight to ensure accountability. For example, the court must determine whether the state is making reasonable efforts to finalize the permanency plan.25 When appropriate services are not provided to move a youth to permanency, the court should make a “no reasonable efforts” finding and indicate the services that must be provided by the child welfare agency. This finding ensures that the child welfare agency understands and follows through with its obligation to the youth. Aligning permanency review or status review hearings with the review of the transition plan can reinforce planning and enlist the court’s assistance in ensuring that the plan has significant options for the youth.

Youth Participation in Court Proceedings. Courts and child welfare systems around the country recognize that youths must participate in decisions that affect their lives.26 In fact, federal law requires age-appropriate consultation with youths in all permanency hearings and any hearing regarding transition from foster care to adulthood.27 Actively involving youths in court can improve permanency planning and the likelihood that plans are carried out. Participation is critical for youths who have reached the age of majority and have the legal right to make certain decisions, such as those regarding medical treatment, education, and remaining in foster care.28 Another consideration is that when a youth turns 18, the youth’s legal relationship to the youth’s parents changes, and the youth may have greater input on whether parents are invited to participate in agency and court proceedings affecting him.

The court can help youths understand their rights and support good decision making, offer a forum for discussing the transition plan, determine whether a youth has fully participated in the planning, and ensure that the plan meets the youth’s needs and interests. Participation in court is an excellent way to help young adults understand the transition to adult legal status and gives them a chance to build decision-making skills that are essential once they exit foster care.

Models of Court Oversight. Some states’ specialized courts and age-appropriate procedures for older youths recognize that courts can engage youths, bring parties together, and ensure that appropriate actions are taken.

A paradigm is the benchmark hearing developed in Cook County, Illinois.29 The youth and the judge are the central participants, and most of the hearing consists of a discussion between the judge and the youth about the youth’s goals and the services and supports needed to achieve these goals. Representatives from various agencies are in court to answer questions about eligibility for the delivery of services and to arrange for such delivery. The hearing results in an agreement between the judge and the youth. Cook County Family Court, which has dedicated a judge to holding these hearings, finds that such hearings can involve youths in their own planning and

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2545 C.F.R. § 1356.21(b)(2) (2009).
28E.g., CAL. WELF. & INST. CODE § 11403 (requiring agreement by the youth to continue foster care benefits) (West 2009).
29For more information on benchmark hearings, see EMILY BUSS ET AL., FROM FOSTER CARE TO ADULTHOOD: THE UNIVERSITY OF CHICAGO LAW SCHOOL FOSTER CARE PROJECT’S PROTOCOL FOR REFORM 65–82 (2008).
in meeting their goals. This model acknowledges the age and maturity of the youth by making the youth a central actor in the proceeding.

Whether a jurisdiction adopts the benchmark model or not, courts can enhance permanency hearings for an older youth by integrating certain practices: preparing the youth for the hearing; allowing the youth and the judge direct contact; giving the youth the opportunity and sufficient time to present the youth’s own plans and goals; scheduling court hearings at times that do not conflict with school or other obligations and arranging court calendars to avoid undue waiting time; allowing ample time for each case; and allowing immediate access to information and resources to break down barriers on the spot.

Reentry into Care. Many youths who leave home at 18 come back for holidays or even to stay for an indefinite time. They can strike out on their own but have a safe place to return to if necessary. Most youths in foster care do not have that luxury, but some states have created procedures that are consistent with adolescent development and allow youths to reenter foster care when they need to. For example, when a foster youth in New York elects to leave care before the youth’s 21st birthday, court supervision and case management continue for at least six months as a “trial discharge.” During the trial discharge, the child welfare agency retains custody, and the youth may reenter care and receive the full array of placement and services. Arkansas has developed an alternative model in which youths who have been discharged from care at 18 may petition the court through a guardian ad litem to reenter care. The court continues to have jurisdiction over the case once reopened. The Fostering Connections to Success and Increasing Adoptions Act allows states to claim Title IV-E funds for these reentry youths, provided that all other Title IV-E eligibility criteria are met.

Other states, such as Connecticut and Arizona, allow youths to reenter care without court oversight. The lack of court oversight may make these youths ineligible for Title IV-E funding, and these states may want to consider extending court jurisdiction to such reentry in order to draw down Title IV-E funds for these youths. States may find that court oversight and age-appropriate court practices enhance the services for youths who reenter care.

The Lawyer for Older Youths. Lawyers for children in some states may have to adjust their model of representation when youths become legal adults. Although national standards support the traditional attorney-client model for representation of minors, some states require attorneys to act as guardians ad litem, or take positions deemed in the child’s best interest, even when contrary to their clients’ wishes. Once a youth becomes an adult, questions about legal competence based on age disappear, and legal ethics require client-directed representation.

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30A recent survey of forty-five states and the District of Columbia indicates that in practice one-third of the states allow some form of reentry (Dworsky & Havelicek, supra note 15, at 14). For a detailed discussion of reentry, see Buss et al., supra note 29, at 97–103.


34E.g., the care and placement of the child must be the legal responsibility of the state agency (42 U.S.C. § 672(a)(2)(B); Child Welfare Policy Manual, supra note 13, § 8.3A.9).

representation in the attorney-client relationship. States that impose a best-interest model on attorneys have to review their laws and practices to ensure that they are consistent with applicable ethical standards. Attorneys who are serving as guardians ad litem may need to alter their approach, making sure they explain their role, articulating any differences they have with the youth, and ensuring that the youth has access to legal representation when conflicts cannot be resolved or independent representation is warranted for other reasons.

Client-directed advocacy gives young adults the opportunity to make decisions in consultation with their attorneys—a skill which many youths do not have the opportunity to learn and practice while in foster care. Advocates recognize the value of client-directed or client-centered representation because it promotes client dignity, fosters empowerment and independence, and is a direct opportunity for youths to participate in decisions about their own lives. For youths over 18, who have not only the legal status of an adult but also a greater ability to use insight and think abstractly, client-directed advocacy is especially appropriate. Regardless of their ages, the attorney retains a critical role in counseling youths, enforcing their rights in court, monitoring permanency and transition efforts, helping them access services, and preparing them to participate in court proceedings.

A New Placement Option for Youths Over 18

For youths who have reached 18, the Fostering Connections to Success and Increasing Adoptions Act adds a placement option by expanding the range of child care institutions eligible for Title IV-E funding to include “a supervised setting in which the individual is living independently.” This option recognizes that family foster care and traditional child care institutions recognized by Title IV-E under previous law are not suitable for many young adults who need age-appropriate freedom to make decisions and take responsibility for themselves. Services in these expanded range of placements should allow for increasing levels of autonomy and continue to help youths develop relationships with mentors, relatives, and other supportive adults. Developmentally appropriate placements may also encourage youths anxious to escape difficult living conditions, such as restrictive group home rules, to accept continued support when they need it.

The Fostering Connections to Success and Increasing Adoptions Act does not define “supervised setting in which the individual is living independently” but requires placement to be “in accordance with such conditions as the Secretary shall establish in regulations.” Although regulations have not yet been issued, federal law requires states to establish and maintain standards for foster family homes and child care institutions that are reasonably in accord with applicable national standards. The Child Welfare League of America developed standards for transitional, independent-living, and self-sufficiency services that are instructive for the development of standards in accord with national ones.

These standards emphasize a continuum of options to meet the needs of youths at different developmental phases and recommend that federal or state regulations be sufficiently flexible to allow less restrictive settings, such as individual apartments or host homes that support youths’ transition.

Programs reflecting these standards already are in many parts of the country, and many states have some form

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3642 U.S.C § 672(c)(2).
37Id. § 672(c).
38Id. § 671(a)(10).
40Id. at 149.
of supervised independent-living settings for older youths in foster care. These settings may be scattered-site and semisupervised apartments, clustered or supervised apartments, host homes, and shared homes or college dormitories with case management. These options have various levels of support and supervision so that youths can practice independent-living skills in the real world and experience the consequences of making mistakes while they have the safety net of the child welfare agency to help them learn and move forward.

The amount of supervision and level of responsibility necessary in these programs is based on a youth’s level of development, with the goal of moving the youth toward self-sufficiency that can be maintained when the youth exits the system. While maintaining the safety net of financial and other support that families provide as their children enter adulthood, independent-living settings attempt to mimic as much as possible the opportunities for freedom and responsibility that parents would want for their own children.

For programs to flourish, federal regulations and state standards for supervised settings in which a youth is living independently should allow states the flexibility to create supervision levels and living arrangements for older youths and guidance on program models.

**Chafee Services**

The Chafee Foster Care Independence Act provides a limited amount of federal funding for services to meet the challenges to youths aging out of foster care. Chafee programs serve and benefit many youths, but the funds are not sufficient to meet the needs of all eligible youths. Even with the Fostering Connections to Success and Increasing Adoptions Act’s additional supports, Chafee services, such as education and training vouchers and housing for youths who have left foster care, are still in great demand. For example, some youths will be ready for independent living by 18, needing minimal help with college expenses or Medicaid coverage. Other youths may need substantial assistance but decide not to continue in foster care because of a negative experience with the child welfare system. For these youths who leave care but are unprepared, Chafee provides intensive but flexible case management, room-and-board assistance, mentoring, and flexible funds to meet basic needs. Chafee funds may also help states develop expertise in meeting the transition needs of youths with developmental, behavioral, or physical health needs that require continued services in systems that serve adults. The Fostering Connections to Success and Increasing Adoptions Act’s continuation of support for youths over 18 who remain in care should not be viewed as a replacement for Chafee programs. Instead states should coordinate the delivery of services funded through the Fostering Connections to Success and Increasing Adoptions Act and Chafee to create a spectrum of services and support for the various needs of older youths in care and those who have aged out.

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44Each state is allocated Chafee funds to help prepare for adulthood those youths who are expected to age out of foster care. The statute does not mandate the exact services that must be provided, but examples are life-skills training, budgeting and financial planning, mentoring, tutoring, college preparation, and housing assistance. A state may use up to 30 percent of its Chafee funds to provide room and board for youth who age out at 18 and are still under 21. While the Chafee Act doubled the federal funding allocated for independent-living services, not all eligible youths receive such services because the funds allocated are not sufficient to serve all eligible youths. E.g., estimates using 2001 data indicate that, even with a very conservative calculation of Chafee-eligible youths, only $1,400 would be available per eligible youth (see Mark E. Courtney & Darcy H. Heuring, The Transition to Adulthood for Youth “Aging Out” of Foster Care, in On Your Own Without A Net: The Transition to Adulthood for Vulnerable Populations 54 (D. Wayne Osgood et al. eds., 2005). Moreover, it is the state that applies for and receives the Chafee funds. Individual youths do not receive funds directly but must request them from their child welfare agency. Once a state uses all of its Chafee funds, an eligible youth does not receive any services.
The Fostering Connections to Success and Increasing Adoptions Act offers new opportunities to reduce poverty and homelessness for youths leaving foster care and improves their chances of achieving permanency. Advocacy at the state, local, and individual level can help determine whether these potential benefits are realized. Child advocates can and should take part in the Act’s implementation. Legislative and administrative advocacy can help ensure that state law and policies are consistent with the new Act’s mandates. Advocates should also encourage states to adopt the option to continue foster care maintenance payments past age 18 and to develop programs and policies that benefit all older youths regardless of their developmental level or need. Advocacy for youths in juvenile court is necessary to ensure that youths have the benefits and protections of federal law. Legal aid advocates who work with vulnerable people, such as homeless youths who are or have been in foster care, may also be able to use the Act’s provisions to obtain the services that their clients need.

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Comments?
We invite you to fill out the comment form at http://tinyurl.com/JulyAugustSurvey. Thank you.

—The Editors
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You're a young person in transition. It's a trip and you are the traveler! You're on your way to your next stop: independent young adulthood. **IT'S EXCITING:** when you get there, you'll have no state or foster care strings attached to you. You'll get to make your own decisions. **IT'S SCARY:** times are uncertain. Young people are having trouble finding jobs, getting their lives going. At FosterClub, we believe in you. We built this toolkit to help you design a travel plan, working with your transition support team, that will create a map of what you have and what you need for your safe journey to adulthood.

FosterClub members
Lupe (Arizona), Mercedes (Wisconsin), Tyler (Florida), Nicole (Oregon), Anthony (Georgia)
a message to supportive adults...

Everyone can use some help from a friend. As advocates for young people in foster care, we know these youth need support like all teens. Our experience at FosterClub tells us that having committed and reliable adult supporters is the number one indicator of success for a young person transitioning from foster care.

You can strengthen your role as a Transition Support Team Member for this youth:

■ Read the information in this toolkit and visit www.fosterclub.org for more tools to help youth prepare for life after foster care

■ Visit www.fosteringconnections.org to learn more about the Fostering Connections Act

■ Help the youth identify their strengths AND needs

■ Make it clear how you are willing to support the youth

■ Help keep the youth on track

■ Celebrate success

■ Remember that it’s the youth’s life — and it’s their transition plan. Mentor away, but keep in mind that ultimately, they will be the ones living out the plan.
Young people who “age out” of foster care – or turn too old to receive foster care services – often face the challenges of adulthood unprepared and without support.

Suddenly you age out and you’re hit with millions of adult decisions to make, like finding safe, affordable housing, setting up utilities, getting health insurance, finding transportation, getting a job and much more.

The fact is, most young adults in America can lean on their parents to help with some of this support into their late 20s. But as a young person in foster care, it’s possible that you can’t count on support from your parents.

So you need to get a plan. Check out this FosterClub Transition Toolkit. It’s a map to guide you out of foster care and into safe independent adulthood. You can call it a “Transition Plan”.

**WHAT IS A TRANSITION PLAN?**

**The government’s take:**
A recent federal law requires that all states must develop a transition plan for foster
youth during the 90 day period before the youth leaves foster care at age 18, 19, 20 or 21. The plan must be individual to the young person and developed with the young person. Among the issues to be addressed are specific options on housing, health insurance, education, local opportunities for mentors, and workforce supports and employment services.

**What FosterClub believes:**
The good part about this new law is that the Government states clearly that foster youth need a transition plan and that the youth needs to help develop it.

Our view is that it’s your life. What happens should be your say, not just a judge’s or a caseworker’s. And just 90 days to develop a plan for life? We believe that you owe it to yourself to get the facts and start working on your transition plans as early as you can. The sooner you can start, the more control you’ll have. Two or three years before leaving the foster care system is not too soon to be working on your Transition Plan.

You’ve dreamed about those days of independence after foster care. With this Transition Toolkit, you can take charge and begin to make those dreams come true.

Visit us online at www.fosterclub.org for stories about real youth aging out of the system.

---

**more about the Fostering Connections to Success and Increased Adoptions act of 2008 law** (Public Law 110-351)

The new Fostering Connections law made major improvements to programs and policies related to older youth in foster care. Specifically, the Fostering Connections law provides new supports and services to promote permanency and the improved wellbeing of older youth in foster care. These include foster care, adoption, or guardianship assistance payments to children after the age of 18; a requirement that personal transition plans for youth aging out are developed within 90 days prior to youth exiting foster care; extending eligibility for Independent Living Program services to children adopted or placed in kinship guardianship at age 16 or older; and extending eligibility for education and training vouchers to children who exit foster care to kinship guardianship at age 16 or older ( those adopted after age 16 were already eligible).

For the exact text, go to Section 475 of the Social Security Act (42 U.S.C.675)

For more information visit The Fostering Connections Resource Center at www.fosteringconnections.org. The Center serves as a library of child welfare information and resources to help states and tribes in their efforts to implement Fostering Connections.
WHAT’S YOUR
Transition Plan?

You can take action now, invest in your future, and create your transition plan to really work for you.

The FosterClub Toolkit is a step-by-step transition plan. Here, you’ll clarify your goals, gather up resources, build a Transition Support Team, honestly evaluate your assets, and sharpen your skills for life on your own. With FosterClub’s Transition Toolkit as your guide, you can put yourself in the driver’s seat to your future.

The FosterClub Transition Toolkit is built around ten different categories. You’ll visit each category on your transition journey.

- Finances + money management
- Job + career
- Life skills
- Identity
- Permanence
- Education
- Self care + health
- Housing
- Transportation
- Community, culture & social life

In this Toolkit, these categories are shown as lines on a subway map (next page). Each stop on the subway map is an item for you to examine as you follow the path to leaving foster care.

* Complete these items to comply with requirements of the Fostering Connections to Success and Increased Adoptions Law.
**Where to Start?** That’s up to you. This map provides a quick overview of the ten different categories you’ll want to check out. Just as a subway line contains many stops where you can get out and look around, each category “line” contains several stops to explore. You’ll notice assets and skills you’ll want to pick up at each stop as you journey on your transition to adulthood.
You don’t have to do it alone:

**GET YOUR OWN PERSONAL GPS: A TRANSITION SUPPORT TEAM**

Planning for your transition to adulthood can be a little daunting. But don’t worry – you can get your very own GPS system to guide you. By pulling together your Transition Support Team – you’ll have access to guides who have already made the journey to adulthood. They can help show you the way and equip you with information, advice, and access to resources. They can help you stay on track and will be by your side to celebrate as you achieve your goals.

The size of your team is up to you. Try for at least two or three adult supporters. A member of your transition support team could be an adult who has supported you or given you good advice in the past, such as:

- a coach or teacher, a pastor or church member
- a neighbor or employer,
- a CASA, attorney, or guardian ad litem
- a relative, foster parent or guardian
- the parent of a friend or classmate
- someone with a career you are interested in: chef or cook, landscaper, engineer, artist or musician, retail buyer, mechanic, small business person, etc.

You can speak to your case worker or social worker about other possible members of your Transition Support Team.

Go Team!
IN THIS TOOLKIT...

overview & map pages
Each map page has a category such as HOUSING. The HOUSING line is divided into stops with challenges for you to consider. Visit each stop and work the challenges.

Transition Planning Worksheets
When you’ve worked the challenges on the map pages, the transition planning worksheets will help you create a plan. Each of the worksheets has four parts:

   **What I Have.** These are the assets that you already possess that will help you with the transition to adulthood. Only list items in this section that you ALREADY have.

   **Resources Available to Me.** Use this section to document resources that are available from your foster care agency or other community resource.

   **This is My Plan.** What do you want to accomplish? Use this section to document your goals and the steps you will take to get there.

   **Readiness Scale.** Work with your Transition Team to score your readiness within each category. Read more on the following page.

GET THE FASTPASS
The Transition Planning Worksheets in this toolkit are available online as a Microsoft Word document. You can type directly into the forms, which have fields that are expandable to accommodate longer answers.

Download at FOSTERCLUB.ORG

TIPS FOR TRANSITION PLANNING...

Keep your transition plan in a safe place.
Some of the information you document may be personal. Protect yourself from identity theft by keeping your information secure.

Ask for info and advice.
The adults in your life have already made the transition to adulthood. Make use of what they know...ask adults you respect for information and advice.

Revisit & revise.
Creating a transition plan shouldn’t be a one-time event. Make time to check your progress, see how your readiness improves, and update your goals at least every 6 months.

Jump in and learn more!
Go to www.fosterclub.org to find resources for foster youth. Learn from your peers who are also making the transition from foster care to adulthood.

FOSTERCLUB’S TRANSITION TOOLKIT
Tracking Your Progress

OK, this section might really turn you off. You might hate keeping score. Or you might love it. This page explains the keeping score part of the worksheets, WHICH IS COMPLETELY OPTIONAL. So skip it if you dislike keeping score.

At the bottom of each Planning Worksheet is a “Readiness Scale.” You and your Transition Support Team can rate how ready you are on a scale from 1 (not ready at all) to 10 (completely ready) for each of the domains. Once you’ve completed a plan for all 10 domains, you can add up all of scores to get a total score. The overall goal is to track your progress, say, from month to month or year to year.

Check this out: there’s no pass or fail on this chart, no perfect or horrible score, no lazy or workaholic score. The point system here is designed to only show part of your progress in working your Transition Plan.

Another point is that you should expect your “Readiness Scale” points to get higher as you get older. At 14 years-old you would not fill in the worksheet as completely as you would at 18. It just makes sense.

You may see that you are stronger in some categories than in others. Tracking shows where you can improve in a category or compensate by building up in other categories.

GET STARTED!

The TRANSITION PLAN OVERVIEW WORKSHEET on the very next page is completely different than the other WORKSHEET pages. You’ll see that there is no “Readiness Scale”. You’ll also notice other unfamiliar concepts on the bottom half of the sheet.

That weird part is for your case worker or social worker or judge to fill out.

The top half of the form is for you to use as you work your way through FosterClub’s Transition Toolkit. Log in as you finish a category.

To complete the forms online, go to www.fosterclub.org, click on Transition Toolkit, click on ‘download the templates in word format’.
# Transition Plan Overview Worksheet

## Youth Information

<table>
<thead>
<tr>
<th>First Name and Initial</th>
<th>Last Name</th>
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<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Case Number</th>
<th>Independent Living Provider or Case Manager</th>
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<tbody>
<tr>
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</table>

<table>
<thead>
<tr>
<th>Date Plan Completed</th>
<th>Six month follow-up due</th>
<th>Projected emancipation date</th>
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<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>Birth date (mm/dd/yy)</th>
<th>Current age</th>
<th>Gender</th>
<th>Male</th>
<th>Female</th>
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<tbody>
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## Transition Domains

Indicate the domains included in this transition plan, along with the Readiness Score (optional)

<table>
<thead>
<tr>
<th>Completed domains</th>
<th>Date of 1st score</th>
<th>Date of 2nd score</th>
<th>Date of 3rd score</th>
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<tbody>
<tr>
<td>□ Finances &amp; Money Management</td>
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</tr>
<tr>
<td>□ Education</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>□ Job &amp; Career</td>
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<td></td>
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<tr>
<td>□ Permanence</td>
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<td></td>
<td></td>
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<tr>
<td>□ Life Skills</td>
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<tr>
<td>□ Community, Culture, &amp; Social Life</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Transportation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Identity</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Housing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Self Care &amp; Health</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>□ Other (please list):</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total Readiness Score: __________

## Additional Plans

Have other community partners crafted a plan on behalf of the youth?  □ Yes  □ No

If Yes, consider including as part of this transition plan in order to reduce redundant planning and improve agency collaboration in serving the youth:

□ Ansell-Casey Life Skills Plan (www.caseylifeskills.org)
□ Individual Education Plan (IEP)
□ Person Centered Plan
□ Treatment Plan and Discharge Plan (D&A, Residential, Mental Health, etc.)
□ Voc Rehab/IPE (Individual Plan for Employment)
□ Development Disabilities Individual Support Plan (DD ISP)
□ Temporary Assistance to Needy Families (TANF/JOBS)
□ Workforce Investment Act (WIA)
□ Other (please list): __________

## Transition Team

Attach additional sheets as necessary

<table>
<thead>
<tr>
<th>Name</th>
<th>Role</th>
<th>Phone Number</th>
<th>e-Mail</th>
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</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Role</th>
<th>Phone Number</th>
<th>e-Mail</th>
</tr>
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<tbody>
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<td></td>
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</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Role</th>
<th>Phone Number</th>
<th>e-Mail</th>
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</tbody>
</table>

I participated in creating and approve of this Transition Plan. Youth’s Signature: __________

Visit www.fosteringconnections.org for more federal and state information regarding the Fostering Connections to Success and Increased Adoptions Act
Nowadays, it is especially important to be savvy about your finances. Pay attention to your finances. Mistakes can be very costly. While planning for your financial future, think about these stops along the way.

- **Checking Account.** Getting one can be more difficult than you might think. Banks often require two pieces of official ID to open a new account. It is important to open an account before you leave foster care. On the worksheet, list only the bank name for your account.

- **Savings Account.** Include accounts where you have direct access to funds (money you can withdraw without another person’s signature). List the bank name.

- **Source of Income.** List income you receive, but not money from a job you do. You can list: Social security, disability income, Chafee housing support, etc., and include how often and how much you get. Add contact names and phone numbers—you may need extra paper for this.

- **Monthly Budget.** Will you have enough money coming in to pay the bills? A monthly budget outlines all of your expenses and helps you see exactly what you’ll need to cover your living expenses. Add contact names and phone numbers—you may need extra paper for this.

- **Savings for Leaving Foster Care.** Set a goal to save a specific amount of money by your emancipation, or age-out date. Savings may be used to rent an apartment, for transportation, or as a slush fund for emergencies. List your current savings balance to gauge progress toward the savings goal.

- **Credit Check.** Do you know what your credit looks like? Has anyone stolen your identity and damaged your credit? It is not uncommon for foster youth to have had biological family members use their credit.

- **Build Your Money Management Skills.** List any independent living courses relating to money management that you have taken. Also list skills acquired in the home or at school. Skills might include credit, budgeting, balancing checkbooks/accounts, consumer skills, etc.

- **Readiness Scale.** Needs work 1 2 3 4 5 6 7 8 9 10 Prepared
### WHAT I HAVE

Looking for instructions? Download at www.fosterclub.org

<table>
<thead>
<tr>
<th>Bank account status:</th>
<th>Bank name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Checking account open</td>
<td></td>
</tr>
<tr>
<td>☐ Savings Account open</td>
<td></td>
</tr>
<tr>
<td>☐ Other:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Savings for leaving foster care:</th>
<th>☐ Monthly budget created</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal: $</td>
<td>Amount currently saved: $</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Regular sources of income (description):</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
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<td></td>
<td>$</td>
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<td></td>
<td>$</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Demonstrated money management skills (list):</th>
<th>☐ Credit checked (for identity theft)</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Taxes</td>
<td>☐ Other:</td>
</tr>
<tr>
<td>☐ Banking</td>
<td>☐ Other:</td>
</tr>
<tr>
<td>☐ Saving/Investing</td>
<td>☐ Other:</td>
</tr>
<tr>
<td>☐ Budgeting</td>
<td>☐ Emergency money matters</td>
</tr>
<tr>
<td>☐ Lending / Financing</td>
<td></td>
</tr>
</tbody>
</table>

### RESOURCES AVAILABLE TO ME

Find 'em at www.fosteringconnections.org

<table>
<thead>
<tr>
<th>Assistance type</th>
<th>Eligibility (what I need to qualify)</th>
<th>Who I contact (and how to apply)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

### THIS IS MY PLAN

Get ideas about how to make a plan at www.fosterclub.org

<table>
<thead>
<tr>
<th>Short term (1 year) goals</th>
<th>Steps &amp; services (and who will help me)</th>
<th>Progress</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

Plan immediately after I leave foster care:

Long term goals (five years from now, my financial goal is):

<table>
<thead>
<tr>
<th>READINESS SCALE</th>
<th>Needs work</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
<th>Prepared</th>
</tr>
</thead>
</table>

Visit www.fosteringconnections.org for more federal and state information regarding the FosterCare Connections to Success and Increased Adoptions Act.

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Explore these ideas as you build a plan to make housing happen...

**Find out about Transitional Housing Options**
Transitional housing programs can offer an opportunity to practice living on your own while providing you with tools for independent living. Find out what programs are available to you. Is there a transitional housing situation you prefer (like shared housing vs. living in your own apartment)?

**Calculate the Cost**
Do a scan of the cost for rent in your area. Research the up-front or move-in costs, including security deposit/first-last month’s rent, and application fees.

**Research Post-Emancipation Options**
Check into subsidized supportive housing, adult service housing, apartment, shared housing, dormitory, relative or foster home.

**Know Your Resources**
Make a list of the $ that might be available to you, like Chafee, ILP subsidies, financial aid, employment, section 8, relative and/or foster parent support. Make sure you know whether or not you’re eligible, what the application process is, and how long you’ll have to wait to start receiving assistance.

**Consider Neighborhoods & Potential Housing Locations**
Identify social and supportive needs (Proximity to family, friends, support groups, therapy, ideal roommate situation, transportation availability).

**Sample Application**
Complete a sample rental application to make sure you have all the information you’ll need to apply.

**Build Your Skills**
Learn skills and legal rights around housing (Discuss Landlord/Tenant Law and housing rights, review a lease form, list references, provide contacts for renter’s rights organization, discuss dealing effectively with landlords).

**Got Stuff?**
Identify furniture and household item needs, then start securing furniture and household items.

**Have a Back-up Plan**
Make a list of fallback resources (family, friends, caseworker, renter’s organizations, shelters). Locate a place where you can seek emergency shelter in the event that permanent housing is lost. Make sure you know how to get to this location.

**Secure a Co-signer**
Some places will require a co-signer for first-time renters. It can be difficult to find someone, because they must be willing to take responsibility if you don’t pay.

**Get a Place**
Decide where to live.

**Make Your Move**
Figure out how you will handle the moving process (secure furniture, truck, moving help).
### WHAT I HAVE

<table>
<thead>
<tr>
<th>Where I live now:</th>
<th>Planned end date:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Housing after foster care (leave blank until arranged):</th>
<th>☐ Sample rental application completed</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Rental reference, or co-signer</th>
<th>Phone and/or email:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Back up plan (in case of emergency, this is where I’ll go):</th>
</tr>
</thead>
</table>

### RESOURCES AVAILABLE TO ME

<table>
<thead>
<tr>
<th>Assistance type</th>
<th>Eligibility (what I need to qualify)</th>
<th>Who I contact (and how to apply)</th>
</tr>
</thead>
</table>

### THIS IS MY PLAN

<table>
<thead>
<tr>
<th>Short term (1 year) goals</th>
<th>Steps &amp; services (and who will help me)</th>
<th>Progress</th>
</tr>
</thead>
</table>

**Plan immediately after I leave foster care:**

**Long term goals (five years from now, my housing goal is):**

### READINESS SCALE

<table>
<thead>
<tr>
<th>Needs work</th>
<th>☐ 1</th>
<th>☐ 2</th>
<th>☐ 3</th>
<th>☐ 4</th>
<th>☐ 5</th>
<th>☐ 6</th>
<th>☐ 7</th>
<th>☐ 8</th>
<th>☐ 9</th>
<th>☐ 10</th>
<th>Prepared</th>
</tr>
</thead>
</table>

Visit www.fosteringconnections.org for more federal and state information regarding the Fostering Connections to Success and Increased Adoptions Act.
During the transition to adulthood, surprises about the cost of health and self care often take young people by surprise. Plan for a healthy journey!

**HEALTH INSURANCE**

Know what type of health insurance you have access to after you leave care. Find out what you need to do to maintain eligibility for health coverage. Research what it will cost if you have to pay for your own health care. List your medical insurance provider and your identification or client number.

**HEALTH CARE PROVIDER**

List your most current doctor, even if you no longer have health insurance. Compile medical records if multiple doctors/providers have been used. Confirm that your immunizations are up-to-date. Get a comprehensive health exam before leaving foster care, if possible.

**MENTAL HEALTH INSURANCE**

Know what type of health insurance you have access to after you leave care. Find out what you need to do to maintain eligibility for health coverage. Research what it will cost if you have to pay for your own health care. List the Medical Insurance provider and your identification or client number.

**MENTAL HEALTH CARE PROVIDER**

List your most current mental health provider, even if you no longer have health insurance. Compile medical records if multiple doctors/providers have been used.

**PRESCRIPTIONS**

Make a list of current prescriptions you need. Find out if health insurance will continue to cover the cost (and for how long). Determine what the prescriptions will cost if you have to pay for them on your own. Learn about the side effects of stopping prescriptions without doctors’ orders. Figure out how to keep prescriptions in a safe place.

**HEALTH SUPPORT**

Identify supportive individuals who can help you stay healthy, including someone who would be willing to attend medical appointments with you and advise you in accessing resources.

**HEALTH EDUCATION**

Prepare yourself with health education, including healthy sexual decision making, awareness of birth family’s physical and mental health history, prevention and transmission of sexually transmitted diseases, effects of trauma, substance abuse issues, constructive methods for coping with stress, addressing social and relational problems, anxiety, depression and other mental health issues.
### WHAT I HAVE

Looking for instructions? Download at www.fosterclub.org

<table>
<thead>
<tr>
<th>Current <strong>HEALTH</strong> insurance coverage (name of company/plan):</th>
<th>Policy #:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does current plan continue after leaving foster care?:</td>
<td>Anticipated end date of coverage:</td>
</tr>
<tr>
<td>□ Yes  □ No  □ Unsure</td>
<td></td>
</tr>
<tr>
<td>Current Primary Doctor:</td>
<td>Clinic or Hospital:</td>
</tr>
<tr>
<td></td>
<td>Phone #</td>
</tr>
<tr>
<td>Health issues:</td>
<td>Prescriptions:</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Current <strong>MENTAL HEALTH</strong> insurance coverage (name of company/plan):</th>
<th>Policy #:</th>
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</thead>
<tbody>
<tr>
<td>Does current plan continue after leaving foster care?:</td>
<td>Anticipated end date of coverage:</td>
</tr>
<tr>
<td>□ Yes  □ No  □ Unsure</td>
<td></td>
</tr>
<tr>
<td>Current Therapist:</td>
<td>Clinic or Hospital:</td>
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<td>Phone #</td>
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<td>Mental health issues:</td>
<td>Prescriptions:</td>
</tr>
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</table>

<table>
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<tr>
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<th>Policy #:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does current plan continue after leaving foster care?:</td>
<td>Anticipated end date of coverage:</td>
</tr>
<tr>
<td>□ Yes  □ No  □ Unsure</td>
<td></td>
</tr>
<tr>
<td>Current Dentist:</td>
<td>Clinic or Hospital:</td>
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<tr>
<td></td>
<td>Phone #</td>
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<tr>
<td>Dental issues:</td>
<td>Prescriptions:</td>
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<table>
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<table>
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<tr>
<td>□ Coping with stress</td>
<td>□ Healthy relationships</td>
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<tr>
<td>□ Nutrition</td>
<td>□ Pregnancy prevention</td>
</tr>
<tr>
<td></td>
<td>□ Prevention of STDs</td>
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<td>□ Other:</td>
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### RESOURCES AVAILABLE TO ME

Find ‘em at www.fosteringconnections.org

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Visit www.fosteringconnections.org for more federal and state information regarding the Fostering Connections to Success and Increased Adoptions Act.

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**THIS IS MY PLAN**  Get ideas about how to make a plan at www.fosterclub.org

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</tbody>
</table>

Plan immediately after I leave foster care:

Long term goals (five years from now, my health, mental health, vision and dental goal is):

<table>
<thead>
<tr>
<th>READINESS SCALE</th>
<th>Needs work</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
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</thead>
</table>
SCHOOL RECORDS
Collect a copy of your school records. Make sure you have records from ALL middle and high schools you’ve attended.

SCHOOL CREDITS
Evaluate current school credits and determine if you are on track to graduate. If you are behind, create a plan to make up missed credits or advocate for credit recovery for classes missed due to foster care moves.

i.e.p. = individualized education plan
If you have an IEP, make sure you have a copy of your plan, understand the resources that are available to you, and find out how the plan might carry over to higher education.

FINISH HIGH SCHOOL
Complete GED, high school or training program. If you won’t complete these until after your 18th birthday, talk to your caseworker about remaining in care so that you have the support you need to finish.

Jump on the education line!

Financial Aid
Apply for financial aid, apply for Chafee Education and Training Vouchers (ETV), identify and apply for scholarships.

School Records
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Finish High School
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Higher Ed Options
Identify and research colleges, vocational training or other higher education options. Determine which school to apply for based on achieved and desired skills, career goals, talents, abilities, etc.

Testing
Identify required tests (PSAT, SAT, ACT). Ask your high school counselor for assistance to determine which tests you should take.

Calendar
Create a calendar for school application dates, scholarship deadlines, and other important events.

Apply
Submit applications to schools for higher education.

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# Educational History
Looking for instructions? Download at www.fosterclub.org

<table>
<thead>
<tr>
<th>Current educational status:</th>
<th>Last grade level completed:</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Attending full time</td>
<td>☐ Not attending</td>
</tr>
<tr>
<td>☐ Attending part time</td>
<td>G.P.A.:</td>
</tr>
</tbody>
</table>

Most recent school attended:

On track to earn:

<table>
<thead>
<tr>
<th>☐ Diploma</th>
<th>☐ GED or modified diploma</th>
<th>☐ Other:</th>
</tr>
</thead>
</table>

Anticipated completion date:

<table>
<thead>
<tr>
<th>Math Skills:</th>
<th>Reading Skills:</th>
<th>Writing Skills:</th>
<th>IEP?:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>☐ Yes</td>
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<table>
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<tr>
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# Resources Available to Me
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# This is My Plan
Get ideas about how to make a plan at www.fosterclub.org

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<th>Progress</th>
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Plan immediately after I leave foster care:

Long term goals (five years from now, my educational goal is):

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<th>3</th>
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<tbody>
<tr>
<td>Prepared</td>
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</tbody>
</table>
Got skills? There are a lot of life skills that you can (and should!) practice BEFORE you leave foster care.

LIFE SKILLS SUPPORT
Be sure one or more members of your Transition Support Team can help you learn some of the life skills listed here.

TAKE THE ACLSA
Check up on your life skills knowledge by taking the Ansell Casey Life Skills Assessment at www.caseylifeskills.com

GROCERY SHOPPING
recreation + Leisure activities
cooking
cleaning
personal hygiene
communication

WHAT I HAVE

RESOURCES AVAILABLE TO ME
Find 'em at www.fosteringconnections.org

THIS IS MY PLAN
Get ideas about how to make a plan at www.fosterclub.org

Short term (1 year) goals
Steps & services (and who will help me)

Plan after I leave foster care:
Long term goals (five years from now, my life skills goals include):

READINESS SCALE
Needs work
Prepared
### WHAT I HAVE

Looking for instructions? Download at www.fosterclub.org

<table>
<thead>
<tr>
<th>Ansell-Casey Life Skills Assessment</th>
<th>□ Completed</th>
<th>□ In progress</th>
<th>□ Not completed</th>
</tr>
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</table>

**Demonstrated knowledge of life skills:**

<table>
<thead>
<tr>
<th>Laundry</th>
<th>Recreation/leisure</th>
<th>Personal Hygiene</th>
<th>Other:</th>
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<tbody>
<tr>
<td>☐</td>
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Plan after I leave foster care:

### READINESS SCALE

Needs work □ 1 □ 2 □ 3 □ 4 □ 5 □ 6 □ 7 □ 8 □ 9 □ 10 Prepared

Visit www.fosteringconnections.org for more federal and state information regarding the Fostering Connections to Success and Increased Adoptions Act.
How will you get around to accomplish all you’ve got planned?

- **Determine needs**: Determine what type of transportation needs you will have for school, employment, medical and other appointments, and to maintain connections to family and community (including family visits, church, recreation, etc.).

- **Driver’s Permit**: Study and apply.

- **Driver’s Ed**: Ask if there is assistance from the foster care agency or Chafee Independent Living Program for driver’s education classes and/or other transportation expenses.

- **Public Transportation**: Research and practice using the metro, bus, train or other public transportation, if available in your area.

- **Insurance**: Research auto insurance rates. Find out how insurance rates are impacted by where you live, what you drive, your age, and your driving record. Learn if there is a discount for new drivers who complete driver’s education classes or for students with strong grades. Determine what the up-front insurance costs are.

- **Compare options**: Complete a cost-comparison of your transportation options. Compare the costs of owning a vehicle with public transportation.

- **Emergency Transportation**: Identify emergency transportation options in case of medical emergency or if your first plan for transportation fails.

- **Map Navigation**: Practice map reading skills or learn to use online resources to retrieve directions.
**WHAT I HAVE**

Looking for instructions? Download at www.fosterclub.org

My current mode(s) of transportation:
- [ ] my vehicle
- [ ] friend/family provides
- [ ] public transportation
- [ ] bicycle
- [ ] walk
- [ ] other:

Transportation needed for (school, employment, recreation, etc.):

Driver’s license status:
- [ ] have license
- [ ] have permit
- [ ] do not have

Date obtained:

Auto insurance (company name):

Policy number:

**RESOURCES AVAILABLE TO ME**

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**THIS IS MY PLAN**

Get ideas about how to make a plan at www.fosterclub.org

Short term (1 year) goals

Steps & services (and who will help me)

Progress

Plan after I leave foster care:

Long term goals (five years from now, my transportation goal is):

**READINESS SCALE**

Needs work  □ 1 □ 2 □ 3 □ 4 □ 5 □ 6 □ 7 □ 8 □ 9 □ 10 Prepared
Be sure to get all of your personal documents BEFORE you leave care. It's a lot harder to get some of these items after you exit the system.

- **Obtain an original copy of your social security card**
  Information about obtaining a replacement card can be obtained from [www.ssa.gov](http://www.ssa.gov). Understand the importance of guarding their social security number to protect against identity theft.

- **Obtain a copy of your birth certificate**
  It should be a certified, or official, copy. Learn how to replace it if it gets lost.

- **Citizenship documents**
  If you were born in a country other than the United States, make sure you have a copy of all of your citizenship papers and understand completely what your citizenship rights and responsibilities are.

- **Register to vote**
  At age 18, register to vote.

- **Register for selective service**
  If you are a male age 18 to 26, register for the selective service.

- **Establish a personal filing system**
  You need to establish a method of keeping track of important documents. Methods could include a designated box, an FYI Binder (visit [www.fosterclub.org](http://www.fosterclub.org) for information), a 3-ring notebook, a filing cabinet, or a file-size expandable envelope. Understand the importance of keeping personal documents safe and secure.

- **Check your credit**
  Ask to have a credit report run based on your social security number prior to leaving foster care. It is not unusual for young people from foster care to discover their credit has been damaged when relatives have “borrowed” their identity to get emergency funds or to get credit cards.

- **Get state-issued official photo ID**
  Photo identification is required on many occasions. Obtaining state-issued photo ID before you leave foster care (it’s something your caseworker can help you do).

- **Documentation that you were in foster care**
  This may become important in qualifying for benefits, including financial aid for higher education.

Be sure to get all of your personal documents BEFORE you leave care. It's a lot harder to get some of these items after you exit the system.
**WHAT I HAVE**

Looking for instructions? Download at www.fosterclub.org

<table>
<thead>
<tr>
<th>Personal documents (description):</th>
<th>Status</th>
<th>Possession (who has them)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth certificate</td>
<td>□ Have</td>
<td>□ Applied for □ Do not have</td>
</tr>
<tr>
<td>State-issued picture identification</td>
<td>□ Have</td>
<td>□ Applied for □ Do not have</td>
</tr>
<tr>
<td>Social Security Card</td>
<td>□ Have</td>
<td>□ Applied for □ Do not have</td>
</tr>
<tr>
<td>Citizen / immigration documents (if applicable)</td>
<td>□ Have</td>
<td>□ Applied for □ Do not have</td>
</tr>
<tr>
<td>Other:</td>
<td>□ Have</td>
<td>□ Applied for □ Do not have</td>
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- □ Safe personal filing system in place
- □ I know I may request a copy of my foster care case file

**RESOURCES AVAILABLE TO ME**

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Short term (1 year) goals

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Plan after I leave foster care:

Long term goals (five years from now, my housing goal is):

**READINESS SCALE**

Needs work □1 □2 □3 □4 □5 □6 □7 □8 □9 □10 Prepared
Permanence is number one. It's the top reason young people successfully transition to adulthood.

**Know Your Permanency Plan**
Many of the adults in your life may not be as available to you after you leave foster care, such as foster parents, case workers, judges and attorneys. It can be a good idea to develop less formal roles with adults who can act as support or mentors.

**Identify Supportive Adults**
The role of many of the adults in a foster youth’s life may change, decrease, or even end after the youth leaves foster care. Make sure to make connections to supportive adults who will continue to support you into adulthood.

**Identify the Kinds of Supports Needed**
What kinds of support from adults will be helpful as you move into adulthood — and for the rest of your life? Find a list of 45 different supports in FosterClub’s Permanency Pact (www.fosterclub.org).

**Create Permanency Pact**
This tool may also be used to define, substantiate and verbalize a lifelong commitment an adult has made toward supporting you and your goals.

**Establish Permanence**
Young people who have a permanent family connection fare better in their transitioning years. Talk to your caseworker, mentor, or Transition Support Team member about your desires for permanence.

---

**Understand Permanence**
Learn about the various types of permanence (including adoption, reunification, guardianship and kinship care) and the differences between each. Understand how these types of permanence are different than permanent foster care, emancipation or aging out.

---

**Permanency is number one. It's the top reason young people successfully transition to adulthood.**
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Looking for instructions? Download at www.fosterclub.org

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<thead>
<tr>
<th>My current permanency plan:</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Reunification ☐ Adoption ☐ Kinship (live with relative) ☐ Guardianship ☐ APPLA ☐ Not sure</td>
</tr>
</tbody>
</table>

If permanence has been achieved, who with? Name(s):  
Phone:  
Address:  
City, State, Zip:  
E-mail:  

### OTHER SUPPORTIVE ADULTS

<table>
<thead>
<tr>
<th>Name(s):</th>
<th>Phone:</th>
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<table>
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<tr>
<th>Address:</th>
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<table>
<thead>
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<th>Relationship &amp; supports provided:</th>
<th>☐ Permanency Pact completed</th>
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### RELATIONSHIP WITH BIOLOGICAL RELATIVES

<table>
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<tr>
<th>Biological relatives (including siblings):</th>
<th>Relationship (parent, aunt, etc.)</th>
<th>Status</th>
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<tr>
<td></td>
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### THIS IS MY PLAN

Get ideas about how to make a plan at [www.fosterclub.org](http://www.fosterclub.org)

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Plan after I leave foster care:

Long term goals (five years from now, my housing goal is):

### READINESS SCALE

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WHAT I HAVE
Looking for instructions? Download at www.fosterclub.org
Community Connections
(social groups, activities, volunteerism)
Contact person
Phone

Spiritual support/church:
Contact person:

Peer Circle
(Names)
Length of time known
Phone

My ethnicity:
Not sure
List:
Registered to vote
Registered for draft (if male)

RESOURCES AVAILABLE TO ME
Find ‘em at www.fosteringconnections.org
Assistance type
Eligibility
(what I need to qualify)
Who I contact
(and how to apply)

THIS IS MY PLAN
Get ideas about how to make a plan at www.fosterclub.org
Short term (1 year)
Goals
Steps & services (and who will help me)
Progress

Foster care peer support: Get connected to a group of friends who share your values. Build your peer support skills. If necessary, understand how adult supporters are different than relationships with peers who have also experienced foster care.

Religion: Identify and research your own culture or ethnicity. Develop your own cultural customs.

Cultural events: Connect with culturally-specific events and services in your community.

Culture: Identify and research your own culture or ethnicity. Develop your own cultural customs.

Become a mentor.
If you are prepared and supported to be a mentor, becoming a mentor can instill confidence, creates bonds among foster youth, and provides you with opportunities to teach relationship skills. (If possible, identify a mentor or coach who can assist you with this process.)

Register to vote (age 18)
Register for selective service (males between 18 and 25)
### WHAT I HAVE
Looking for instructions? Download at www.fosterclub.org

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<th>Community Connections (social groups, activities, volunteerism)</th>
<th>Contact person</th>
<th>Phone</th>
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<th>Peer Circle (Names)</th>
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<th>My ethnic heritage:</th>
<th>Registered to vote</th>
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### RESOURCES AVAILABLE TO ME
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Plan immediately after I leave foster care:


Long term goals (five years from now, my community, culture, and social life goal is):


### READINESS SCALE
Needs work [ ] 1 [ ] 2 [ ] 3 [ ] 4 [ ] 5 [ ] 6 [ ] 7 [ ] 8 [ ] 9 [ ] 10 Prepared

Visit www.fosteringconnections.org for more federal and state information regarding the Fostering Connections to Success and Increased Adoptions Act. From the FosterClub Transition Toolkit, copyright © 2010 FosterClub, Inc and FosteringConnections.org. Licensed under a Creative Commons Attribution-Noncommercial 3.0 United States License. Permission granted to copy, adapt, distribute and transmit this work so long as not used for commercial purposes, work is attributed, and this notice remains intact. For more information, contact FosterClub at 503-717-1552 or visit www.fosterclub.org and www.fosteringconnections.org.
This important part of your life deserves special attention.

**Identify Employment Goals**
What are your career interests? What are your desired occupations? What do you want to be doing three years from now? How do you see yourself when you are 30?

**Identify Long-Term & Short-Term Employment Options**
Which jobs and/or programs are attainable at present and what employment opportunities should be available after taking strategic steps?

**Develop Skills for Maintaining and Advancing in Job**
Employer/employee relationships, continued education, assertiveness training, etc.

**Build Your Resume**
Add extra-curricular activities, volunteerism, and take classes to build skills that will be seen as an asset to future employers.

**Know Your Resources**
Where can you go for: help getting a job? Assistance creating a resume? Advice when things aren’t going well on the job? List resources and supportive adults you can turn to for assistance.

**Get a Job**
There’s no better way to learn about being employed than to... well... be employed.

**Identify Natural Skills and Abilities**
Think about what you enjoy doing, where you excel and how your talents, skills and abilities can translate into employment opportunities.

**Identify Educational and Training Needs to Attain Goals**
What steps do you need to take to achieve long-term employment goals? Do you need training? Do you need experience in the field? Research and compare training options through JobCorps, college, apprenticeship, job shadows, etc.

**Develop Job Search Skills**
Discuss where to look for employment: newspaper, internet, signs, boards, word-of-mouth. Practice doing a mock job interview.

**FosterClub's Transition Toolkit**
Jobs + careers
# Employment Experience

Current employment status:  
- [ ] Full time  
- [ ] Part time (Hours per week: [ ] )  
- Position:  
- Pay rate:  

Employer:  
Address:  
City, State, Zip:  
Phone:  

## Past Employment

- [ ] Resumé completed  
- [ ] Sample employment application completed  

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Employment Skills:

Special Certifications:

# Resources Available to Me

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Plan immediately after I leave foster care:

Long term goals (five years from now, my job and career goal is):

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making the exit from care even more difficult...

Listed here are just a selection of challenges that can make the journey to adulthood more difficult. If you have one or more of these challenges, it does not mean that you won’t be successful as you transition out of foster care. But it does mean that you might need to do some additional planning to overcome the challenges.

Some of these challenges have to do with things you may have control over (like becoming a smoker or young parent), and others you may have no control over (like a physical disability).

Think about how you might be able to improve your odds — or your Readiness Score — by preparing even more in other areas (for example, increase your education or life skills training).

Age. It is almost always a disadvantage to leave foster care too young. You receive additional points on your Readiness Score as you are able to develop, mature and stay in the system until you “age out” with the support of caring adults.

Substance abuse and addiction. A high percentage of youth in care have parents with drug or alcohol dependency problems. Youth transitioning out of care should take conscious steps to avoid the dangerous pitfalls of alcohol and drug abuse.

Smoking. Smoking is a high-risk activity that can cause significant health problems.

Incarceration or criminal record. Youth who avoid illegal behavior are more likely to stay safe and succeed as adults. Felony crimes make it very difficult to rent an apartment or obtain employment, which may need to be taken into consideration when rating readiness.

Young parent. Teens and young adults who have become parents face huge challenges. You must understand that it is highly advantageous to establish yourself with education, housing, career, finances, etc. before becoming a parent. If you are a teen parent, it is very important to work to gain an advantage in other areas if possible.

Disability. Young people who have physical, developmental, learning, or mental health disabilities may have additional difficulties transitioning into adulthood. Look for additional resources that might be available to assist you if you have disabilities.
Most young people know that it’s important to have a plan before leaving foster care. But each year, FosterClub hears from youth who have left foster care and lost out BIG... and regret that they didn’t have the information they needed to make an informed decision. Don’t let it happen to you. At the very least, make sure you’ve checked into the following four items and know what you’re getting into by getting out of foster care...

1. Find out if you’ll lose benefits — including money to help you succeed — if you leave foster care before turning 18, and fail to complete applications.

2. Check if you can come back to foster care if you want or need help. Ask your caseworker or judge.

3. Have at least one “go-to” person. It should be someone that is willing to mentor you through tough situations and will provide you with a way to contact them 24/7 in case of an emergency.

4. Check FosterClub’s 21 THINGS checklist — things you should have before you leave foster care (at the very least, you’ll know what you’re missing!). http://www.fosterclub.com/files/21Poster_11x17.pdf

If you are really serious about making a successful transition to adulthood, you’ll need a complete transition plan to prepare you for the journey... this Transition Toolkit can help you map a plan for your future.
Sample State Legislation to Extend Foster Care, Adoption and Guardianship Protections, Services and Payments to Young Adults Age 18 and Older

June 2010

American Bar Association Center on Children and the Law
Center for Law and Social Policy
Children’s Defense Fund
Juvenile Law Center
**AUTHORS AND ACKNOWLEDGEMENTS**

*American Bar Association Center on Children and the Law*

The American Bar Association’s Center on Children and the Law and Commission on Youth at Risk, in partnership with Casey Family Programs and the Eckerd Family Foundation, started the *Bar-Youth Empowerment Project*, focused on transitioning youth. The project aims to improve outcomes for youth currently in foster care as well as young people who have aged out of care by promoting youth participation in court cases that affect them and ensuring access to legal counseling and representation to youth in need of specialized legal assistance. For more information, please contact Kristin Kelly at kellyk@staff.abanet.org or Andrea Khoury at khourya@staff.abanet.org.

*Center for Law and Social Policy*

CLASP’s mission is to develop and advocate for policies at the federal, state and local levels that improve the lives of low income people. In particular, we seek policies that work to strengthen families and create pathways to education and work. CLASP's child welfare work seeks to prevent child abuse and neglect and to ameliorate the trauma experienced by children who are maltreated. We promote policies that empower parents to care for their children when possible and provide alternative, loving homes for children whose parents cannot care for them. For more information on Fostering Connections, contact Tiffany Conway Perrin at tconwayperrin@clasp.org or (202)906-8026.

*Children’s Defense Fund*

The Children’s Defense Fund Leave No Child Behind® mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. CDF provides a strong, effective and independent voice for *all* the children of America who cannot vote, lobby or speak for themselves. We pay particular attention to the needs of poor and minority children and those with disabilities. CDF educates the nation about the needs of children and encourages preventive investments before they get sick, drop out of school, get into trouble or suffer family breakdown. CDF began in 1973 and is a private, nonprofit organization supported by foundation and corporate grants and individual donations. We have never taken government funds. For more information about Fostering Connections, please contact Beth Davis-Pratt at edavis-pratt@childrensdefense.org.

*Juvenile Law Center*

Founded in 1975 as a non-profit legal service, Juvenile Law Center (JLC) is one of the oldest multi-issue public interest law firms for children in the United States. In its Transitions to Adulthood work, JLC promotes policies and practices that are informed by the latest research on adolescent development and research which confirms every child’s need for healthy attachments to caring and consistent adults in their lives. JLC is working with the child welfare and juvenile justice systems to aid older youth in their transition out of these public systems that have supported them, and into successful, stable, healthy, and productive lives as adults in the community. For more information, please contact Jennifer Pokempner at JPokempner@jlc.org.

The authors sincerely thank the following individuals who contributed significant time and expertise in the development of this document: Dennis Blazey, Emily Buss, Kate Egbert, Adrienne Fernandes-Alcantara, Miriam Krinsky, Michael Piraino, and Erik Pitchal.

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Sample State Legislation¹ to Extend Foster Care, Adoption and Guardianship Protections, Services and Payments to Young Adults Age 18 and Older²

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² This sample legislation focuses on children and young adults in the dependency system. However, because many states claim IV-E reimbursement for children in the delinquency and status offense systems, states wishing to extend care beyond age 18 for these populations should consider the applicability of these provisions, especially as they relate to IV-E eligibility for children other than those in dependency cases.

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www.abanet.org/child/empowerment
PART I - INTRODUCTION

On October 7, 2008, the Fostering Connections to Success and Increasing Adoptions Act (Public Law 110-351) was signed into law. Unanimously passed by both houses of Congress, Fostering Connections represents the most significant child welfare reform legislation in more than a decade. The act’s numerous improvements are intended to achieve better outcomes for children and young adults who are at risk of entering or have spent time in foster care. Fostering Connections promotes, among other things, extension of foster care, adoption and guardianship beyond age 18; permanent families for children; important links to family; sibling connections; educational stability and coordinated health planning; expanded protection and supports for American Indian children; and new training opportunities for a broad group as individuals working with children and young adults involved with the child welfare system. A number of important provisions in Fostering Connections are designed to positively impact the lives of, and outcomes for, older children and young adults in foster care and those transitioning out of care. The new law recognizes important steps that are needed to meet the needs of older children and young adults as they prepare to leave foster care. Congress heard from young people who were alumni of foster care, from states that are responding to the needs of older youth in care, and from researchers who have documented the benefits to youth who stay in foster care longer and have improved their chances of success when they leave care.

Fostering Connections presents an unprecedented opportunity to provide care and support to young adults who are in foster care or who exited foster care to guardianship or adoption. Beginning October 1, 2010, under the act, states have the option to amend their Title IV-E state plans to claim federal funds for young adults in foster care beyond their 18th birthday, or for those who exited foster care after age 16 to guardianship or adoption, to age 19, 20, or 21. With limited exceptions, states can currently only claim federal assistance for children up to their 18th birthday. States will be federally reimbursed for those young adults who are eligible for IV-E maintenance payments and who are:

- Completing secondary education or in a program leading to an equivalent credential;
- Enrolled in an institution that provides post-secondary or vocational education;
- Participating in a program or activity designed to promote, or remove barriers to, employment;
- Employed for at least 80 hours per month; or
- Incapable of doing any of the activities described above due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.

For young adults in foster care, this extension should be used by states as additional time to identify a permanent family, and to provide the young adult with the services, supports, and skills needed to transition successfully to adulthood. The extension of guardianship and adoption support provides important options for young adults, allowing them to pursue the most

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3 To be eligible for IV-E reimbursement, the child must meet all eligibility requirements under Title IV-E of the Social Security Act for foster care, including removal from an income-eligible home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child.
appropriate permanency option without having to make the difficult choice between permanency and needed assistance.

Fostering Connections also requires that, in the 90-day period immediately before a child turns 18 (or 19, 20 or 21 as the state may elect), a caseworker and any other appropriate individuals work with him or her to develop a personalized transition plan that is as detailed as the child chooses. The plan must include specifics on housing, health insurance, education, local opportunities for mentors and continuation of support services, workforce supports and employment services. This transition plan is required for all children and young adults for whom foster care maintenance payments are being made. Children and young adults who have returned home or for whom kinship guardianship assistance or adoption assistance payments are being made must also have a transition plan if they are receiving Chafee Program benefits or services. These provisions build on the good work that has long been underway in a number of states. Prior to Fostering Connections, a number of states provided some measure of services and supports to young adults in, or who had been in, foster care.

Like many of their counterparts in the general population, few young adults in foster care are prepared to support themselves at age 18. Approximately half of all young people between the ages of 18 and 24 still live with their parents, and most rely on their parents for some financial support until they are well into their twenties. But, such support is often unavailable to young adults who age out of foster care. Instead, they often report being told, on the morning of their 18th birthdays, that they must leave their foster homes. Two major studies – the Midwest Evaluation of the Adult Functioning of Former Foster Youth and California’s Fostering Connections to Success Act and the Costs and Benefits of Extending Foster Care to 21 – have examined the impact of extending foster care to young adults older than 18. They found that, compared to those who age out of foster care, young adults age 18 and older who remain in care are better off, as is society. There may be fiscal benefits realized for states that extend support to

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5 Currently, limited research or data exists on outcomes for young adults previously in the foster care system. Beginning on October 1, 2010, states must begin collecting data for the National Youth in Transition Database (NYTD). NYTD will collect case-level information on youth in care including the services paid for or provided by the state agencies that administer the Chafee Foster Care Independence Program (CFCIP), as well as the outcome information on young adults who are in or who have aged out of foster care. This is an important opportunity to gain much-needed information about this population and evaluate the programs and services needed to support positive transitions to adulthood.

young adults age 18 and older. For example, extended support can reduce incarceration and reliance on public assistance, and increase positive outcomes, like higher education completion and enhanced employability, which can create concrete fiscal benefits.

How to Use this Sample Legislation

This sample legislation is a tool that state policymakers, administrators and advocates can use as they advocate for and develop legislation to extend support to young adults beyond age 18 in response to Fostering Connections. It can be the basis for new legislation or help in evaluating current state laws or pending legislation.

This sample legislation takes full advantage of the federal support offered by Fostering Connections in two key areas. First, though Fostering Connections allows states to extend care to age 19, 20 or 21, this sample legislation assumes that care and support would be extended to age 21. Second, the act permits states to extend foster care, adoption assistance, kinship guardianship assistance or any combination of the three to age 19, 20 or 21. This sample legislation extends all three forms of assistance to age 21. This sample legislation also goes beyond Fostering Connections in critical areas affecting young adults. It extends care and support to all young adults up to age 21, regardless of IV-E eligibility whereas Fostering Connections provides federal support only for those young adults who are IV-E eligible. It also gives young adults age 18 and older the option to re-enter care after exiting, even though it is not clear that federal support would be available to them.

The remainder of the sample legislation is consistent with the requirements in Title IV-E of the Social Security Act (Title IV-E), as amended by Fostering Connections. However, recognizing that the provisions in Fostering Connections do not by themselves make for a coherent state law, additional language was needed to flesh out policies regarding case plans, transition plans and court oversight. Where possible, language used is precisely what is required by Fostering Connections. However, in some instances the sample legislation includes additional detail that, while not required under the new law, creates sound policy that incorporates best practice. Departures from the letter of the law are clearly identified in the commentary.

This sample state legislation provides states with language to:

- Extend foster care, guardianship and adoption assistance for young adults to age 21;
- Make the most of federal support available under Fostering Connections to free up state and local funding to offer young adults additional supports;


7 For more information about the fiscal advantages for states extending assistance to young adults past age 18, see the National Foster Care Coalition’s – Frequently Asked Questions on the Provisions Designed to Impact Older Youth” at www.nationalfostercare.org.
8 Throughout this document, the term – IV-E eligible” means that a child or young adult qualifies for IV-E reimbursement by fulfilling the requirements for federal foster care, adoption assistance, or guardianship assistance. For a complete description of these eligibility requirements, please see Appendix A.
9 Throughout this document, – Title IV-E” or – IV-E” refers to the programs and requirements under the Social Security Act that encompass federal foster care, guardianship and adoption assistance.
• Extend care and support to young adults who are not IV-E eligible;\(^{10}\)
• Embed in statute best practices derived from research, policy, and existing programs that support permanent families and better outcomes for young adults while they are in and after they exit care; and
• Extend required court oversight for young adults in foster care beyond age 18.

The sample legislation is provided without commentary on pages 6-14. The sample legislation paired with detailed commentary is available on pages 15-33.
PART II – SAMPLE LEGISLATION

ARTICLE 1. GENERAL PROVISIONS

SECTION 101. SHORT TITLE
This “Sample State Legislation to Extend Foster Care, Adoption and Guardianship Protections, Services and Payments to Young Adults Age 18 and Older” is herein referred to as “sample legislation” or “legislation.”

SECTION 102. DEFINITIONS
For the purposes of this legislation:
1. “Administrative review” means a review open to the participation of the child or young adult and the parents, guardians, or other caretakers of the child, unless a court determines participation is not in the best interests of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or young adult or the parents who are the subject of the review, and which is equivalent to the review in which issues are addressed at permanency hearings required by 42 U.S.C. § 675(5)(C).
2. “Child” means an individual who has not attained 21 years of age.
3. “Department” means the state, county, or tribal agency responsible for rendering child welfare services.
4. “Dependency” means the basis for jurisdiction by a state, local or tribal court that encompasses civil protection and oversight of a child who has been found to be abused, neglected, or abandoned, or who has otherwise been found dependent upon Department care and support, or who has been placed in Department care through a voluntary placement agreement executed by a parent or legal guardian.
5. “Fostering Connections” refers to the federal Fostering Connections to Success and Increasing Adoptions Act, Public Law 110-351.
6. “Independent living agency” means a non-profit organization with expertise in the placement and supervision of young adults that meets any relevant licensing requirements of the state and that is operating under contract with the Department to provide placement, case management and supervision services to young adults in foster care. Primary responsibility for the young adults remains with the Department, but those responsibilities can be carried out under contract with appropriate private non-profit service providers.
7. “Independent Living Plan” means a written description of the programs and services which will help a child or young adult prepare for the transition from foster care to independent living as described in 42 U.S.C. § 675(1)(D) and Section 401(b) of this Sample Legislation.
8. “Juvenile court” means any court having dependency jurisdiction.
9. “Medical Condition” means a mental, physical, or emotional condition, including cognitive impairment or addiction.
10. “Supervised setting in which the individual lives independently” means a living arrangement, approved by the Department or an “independent living agency” where the individual lives independently, but in which he or she is provided supervision, case management and supportive services by the Department or “independent living agency” that offer...
developmentally appropriate freedom and responsibility to prepare him or her for adulthood. To approve a setting the Department or “independent living agency” must ensure that:

a. Young adults are provided with a level of supervision commensurate with their individual needs, as assessed by the Department or “independent living agency,” consistent with the young adult’s medical treatment plan, including physical, mental health, and substance abuse treatment plans; permanency plan and independent living goals. Less than 24 hour on-site supervision is permitted, however, 24 hour crisis intervention and support must be available.

b. All requirements related to the case plan as established in 42 U.S.C. § 675(1), including the transition plan, and the case review system established in 42 U.S.C. § 675(5) and its required continued pursuit of permanency consistent with the permanency goal, are satisfied and integrated with the goals of the supervised setting in which the individual lives independently.

c. Young adults living independently in supervised settings are offered, at a minimum, supportive services in: life skills instruction and counseling; educational support and progress; employment preparation and placement; development and maintenance of support networks, including family; health and wellness; and housing search and placement. The determination of what services will be provided and for how long will be based on the young adult’s assessed needs, interests, and input and will be consistent with the goals set in the young adult’s case plan. Acceptance of supportive services beyond those required in section 202 by the young adult shall not be considered a condition of eligibility for placement or continuation in a supervised setting in which the individual is living independently. Provision and delivery of supportive services shall be in coordination with the local Independent Living Program.

d. Approved living settings are in compliance with all state or local health and housing codes. Approved living settings do not have to be contracted with or in the legal control of the Department or independent living agency providing supervision, case management, or supportive services, however, responsibility for the young adult remains with the Department.

11. “Transition Plan” means a personalized plan developed at the direction of a child or young adult, with the assistance and support of a caseworker and, as appropriate, other representatives of the child or young adult as described at 42 U.S.C. § 675(5)(H) and Section 402 of this Sample Legislation.

12. “Young adult” means a child who has attained 18 years of age but who has not attained 21 years of age.

ARTICLE 2. EXTENSION OF CARE

SECTION 201. ADOPTION AND GUARDIANSHIP ASSISTANCE SHALL BE EXTENDED TO AGE 21 FOR ELIGIBLE YOUNG ADULTS

With respect to a young adult for whom an adoption assistance or kinship guardianship agreement is executed after the young adult attained 16 years of age or older, the Department shall continue making adoption and guardianship assistance payments on behalf of that young adult until age 21.
SECTION 202. FOSTER CARE SHALL BE EXTENDED TO AGE 21
1. Unless care and responsibility are terminated pursuant to Sections 203 or 204, the Department shall retain care and responsibility for a young adult in foster care between the ages of 18 and 21 if that young adult is:
   a. Completing secondary education or a program leading to an equivalent credential;
   b. Enrolled in an institution which provides post-secondary or vocational education;
   c. Participating in a program or activity designed to promote, or remove barriers to, employment;
   d. Employed for at least 80 hours per month; or
   e. Incapable of doing any of the activities described in subclauses a. through d. due to a medical condition, which incapability is supported by regularly updated information in the case plan of the young adult.
2. A juvenile court shall, except as provided in Sections 203 and 204, retain jurisdiction over a young adult in foster care between ages of 18 and 21 if the court assumed jurisdiction over the young adult before his or her 18th birthday.
3. Nothing in this statute shall abrogate any responsibilities of the Department or the court on behalf of the young adult, including the protections required under Section 303, or responsibilities of the young adult under state or federal law or regulation.

SECTION 203. TERMINATION OF CARE—GENERAL PROVISIONS
1. The extended jurisdiction of the court and continued care and responsibilities of the Department provided for in Section 202 terminate on the earliest of:
   a. The date the young adult knowingly and voluntarily withdraws consent as set forth in Section 204;
   b. The young adult exits foster care to a permanent home consistent with his or her permanency plan; or
   c. The young adult’s 21st birthday.
2. Notwithstanding the foregoing, the court shall not terminate its jurisdiction until it finds, following a hearing held after notice to all parties, that:
   a. The Department has complied with the provisions of Section 402; or
   b. The young adult has attained the age of 21 and despite ongoing reasonable efforts on the part of the Department to provide him or her services and inform him or her of the right to remain in care beyond age 18, the young adult has not participated in the development of the Transition Plan under Section 402.

SECTION 204. VOLUNTARY TERMINATION OF CARE
1. If the young adult withdraws consent to extended court jurisdiction and continued care and responsibility by the Department under Section 202, a court hearing must be held before court jurisdiction can be terminated and before the Department may close its case.
2. At the hearing, the following criteria must be met before court jurisdiction can be terminated and before the Department may close its case:
   a. Attendance of the young adult’s attorney at the hearing; and
   b. Attendance of the young adult at the hearing; or
   c. Findings by the court that:
      i. The young adult has been informed by his or her attorney of his or her right to attend the hearing and has provided written consent to waive this right;
ii. The young adult has been informed of the potential negative effects of terminating care early, the option to re-enter care before reaching age 21, the procedure and limitations on re-entering care, the availability of aftercare services, and that the young adult has signed a document attesting that he or she has been so informed and understands these provisions, and

iii. The Department has complied with Section 402.

3. All provisions under Section 304 shall apply to hearings under this Section.

SECTION 205. OPPORTUNITY TO RE-ENTER CARE

1. A young adult who exited foster care at or after reaching his or her 18th birthday, but before reaching age 21, may petition the court to resume dependency jurisdiction and the Department to re-open its case. The court shall resume jurisdiction and the Department shall re-open the case if the young adult is engaged in the activities described in Section 202(1).

2. The Department shall create a clear and developmentally-appropriate notice discussing the rights of young adults’ who were formerly in foster care to services under this sample legislation. The notice shall include information about what services they will be eligible for and how such services may be obtained. The Department shall disseminate this information to all young adults in foster care at their last court review before exiting care as described in Section 302 and at the hearing on their petition to resume dependency jurisdiction as described in this section.

ARTICLE 3. COURT SUPERVISION

SECTION 301. LEGAL REPRESENTATION AND CASA ADVOCACY FOR THE YOUNG ADULT IN HIS OR HER DEPENDENCY CASE

1. All young adults shall be appointed an attorney who has received training appropriate to the role, and who has adequate time and resources to provide effective legal representation in the proceeding.

2. The attorney’s representation of the young adult shall be client directed, and the attorney shall be bound by the state’s Rules of Professional Responsibility.

3. The attorney shall protect the young adult’s legal rights and vigorously advocate for the young adult’s wishes and goals, including assisting the young adult as necessary to ensure that the young adult receives the services required under this sample legislation.

4. For young adults who were appointed a guardian ad litem (GAL) attorney before age 18, appointment may be continued but under a client directed model of representation.

5. If the young adult re-enters care under Section 204 and does not have an attorney, the court shall appoint one for the young adult.

6. In addition, the judge has discretion to appoint a court appointed special advocate (CASA volunteer), or continue the appointment of a CASA volunteer, with the young adult’s consent.

SECTION 302. LAST COURT REVIEW PRIOR TO CHILD TURNING 18

1. During the last review hearing before the child turns 18, the court shall:
   a. Address whether the child plans to remain in foster care, and if so, ensure the child’s transition plan includes a plan for meeting one or more of the criteria listed in Section 202(1); and
b. Ensure the child has been informed of:
   i. The right to request termination of dependency jurisdiction and discharge from the Department’s care;
   ii. The right to continued services, which include the Department’s obligations under Sections 202, 401 and 402; and
   iii. The opportunity to re-enter care in accordance with Section 205.

c. If the young adult requests termination of dependency jurisdiction and discharge from the Department’s care, the court shall ensure the young adult has been informed of:
   i. Any services or benefits for which the young adult may be eligible based on being formerly in the care and custody of the Department including, but not limited to, services or benefits available under the Chafee Foster Care Independence Act, 42 U.S.C. § 677;
   ii. Any services or benefits that may be lost through termination of dependency jurisdiction; and
   iii. Any other federal, state, local, tribal or community-based services or supports available to the child.

SECTION 303. PERIODIC REVIEWS FOR YOUNG ADULTS
With respect to any young adult who receives continued care from the Department at or after age 18 under Sections 202 and/or 205, the state shall ensure that:

1. A case review system is in place that includes:
   a. Judicial findings regarding:
      i. The status of the issues described in 42 U.S.C. § 675 (5)(A), (D), (E), (G) and (H); and
      ii. Whether reasonable efforts have been made to place siblings together unless the state documents that such a joint placement would be contrary to the safety and well being of any of the siblings, and in the case of siblings who are not jointly placed, a detailed plan for how ongoing frequent visitation or interaction will be achieved unless it is found that frequent visitation or interaction would be contrary to the safety and well being of any of the siblings.
   b. The frequency and mechanism for review described in 42 U.S.C. § 675 (5)(B),
   c. The procedural protections described in 42 U.S.C. § 675 (5)(C), including that in all permanency hearings or hearings regarding the transition of the young adult from foster care to independent living, that the court or administrative body consults, in an age-appropriate manner, with the young adult regarding the proposed permanency or transition plan for the young adult; and
   d. Any other procedural protections that apply to children under 18 under existing state or tribal law.

2. The court maintains oversight to ensure the Department is coordinating with the appropriate agencies, and, as otherwise permitted, maintains oversight of other agencies involved in implementing the young adult’s case plan, including the independent living plan and, when applicable, the transition plan.

3. The Department prepares and presents to the court a report, developed in collaboration with the young adult, addressing the young adult’s progress in meeting the goals in the case plan, including the independent living plan and transition plan, when applicable, and shall propose modifications as necessary to further those goals.
4. The court determines whether the Department and any service provider under contract with the Department is providing the appropriate services as provided in the case plan including the independent living plan, and when applicable, the transition plan.
   i. If the court believes that the young adult is entitled to additional services to achieve the goals enumerated in the case plan, under the Department’s policies, or under a contract with a service provider, the court may order the Department to take action to ensure that the young adult receives the identified services.
5. The young adult or any other party to the dependency case can request an additional hearing or review.

**SECTION 304. RIGHTS OF THE YOUNG ADULT**

1. Nothing in this sample legislation shall be construed to abrogate any other rights that a person, who has attained 18 years of age, may have as an adult under state law.
2. Young adults have a right to:
   a. Receive notice of case and permanency plan meetings, team decision-making meetings, administrative reviews, court hearings, and any other case-related proceedings or meetings;
   b. Be involved in the development of a personalized transition plan as described in Section 402;
   c. Be present and address the court;
   d. Legal representation as described in Section 302; and
   e. Any other privileges afforded to parties to dependency proceedings under state or tribal law.
3. If the young adult is not present at any hearing, the court shall make a finding as to whether the young adult was given notice and made an informed decision not to attend, in order to proceed with the hearing, or postpone the hearing until the young adult may attend.

**ARTICLE 4. PROGRAM STRUCTURE**

**SECTION 401. SERVICES THAT SHALL BE PROVIDED TO THE YOUNG ADULT**

1. The Department shall revise the written case plan for each young adult in foster care, after consultation with the young adult to ensure it includes at least the following:
   a. A description of the type of foster family home, institution or supervised setting in which the individual lives independently, in which a young adult is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the young adult plans to carry out the voluntary placement agreement entered into, or judicial determination made, with respect to the young adult in accordance with 42 U.S.C. § 672(a)(1) and
   b. A plan for assuring that the young adult receives safe and proper care and that services are provided to the young adult, parents, and foster parents in order to improve the conditions in the parents’ home, facilitate return of the young adult to his own safe home or the permanent placement of the young adult, and address the needs of the young adult while in foster care, including a discussion of the appropriateness of the services that have been provided to the young adult under the plan.
   c. Documentation of the reasonable efforts that have been made to place siblings together, or documentation that such a joint placement would be contrary to the safety and well
being of any of the siblings; and in the case of siblings who are not jointly placed, a
detailed plan for how ongoing frequent visitation or interaction will be achieved or
documentation that frequent visitation or interaction would be contrary to the safety and
well being of any of the siblings. This documentation shall be updated in accordance with
the review and updating of the case plan.

d. The health and education records of the young adult, including the most recent
information available regarding:
   i. The names and addresses of the young adult’s health and educational providers;
   ii. The young adult’s grade level performance;
   iii. The young adult’s school record;
   iv. A record of the young adult’s immunizations;
   v. The young adult’s known medical problems;
   vi. The young adult’s medications; and
   vii. Any other relevant health and education information concerning the young adult
determined to be appropriate by the Department.

e. A written description of the programs and services that will help the young adult prepare
for the transition from foster care to independent living, including, but not limited to,
documentation that assistance has been provided to:
   i. Complete applications for health insurance, including applications for Medicaid;
   ii. Obtain referrals for, apply for, and obtain safe, stable, and age appropriate housing;
   iii. Maintain relationships with individuals who are important to the young adult,
including searching for individuals with whom the young adult has lost contact;
   iv. Access information about maternal and paternal relatives including any siblings,
unless contrary to the safety and well-being of the young adult;
   v. Obtain employment or other financial support;
   vi. Obtain a government issued identification card;
   vii. Open and maintain a bank account;
   viii. Obtain appropriate community services and programs including health, mental health,
developmental disability, and other disability services and supports; and, where
appropriate:
   ix. Satisfy any juvenile justice system requirements and assist with expunging the young
adult’s juvenile’s record;
   x. Complete secondary education;
   xi. Apply for admission and aid for postsecondary educational or vocational programs;
   xii. Obtain the necessary state court findings and then apply for Special Immigrant
Juvenile Status, or apply for other immigration relief that they may be eligible for,
including achievement of citizenship status;
   xiii. Create a health care power of attorney as required by P.L. 111-148;
   xiv. Apply for any public benefits or benefits that he or she may be eligible for or may be
due through his or her parents or relatives, including but not limited to TANF, SSI,
SSDI, Survivor’s Benefits, WIC, Food Stamps, LIHEAP; and, if applicable,
   xv. Assist with applying for a legal name change.

f. In the case of a young adult whose permanency plan is adoption or placement in another
permanent home, documentation of the steps the Department is taking to find an adoptive
family or other permanent living arrangement for the young adult to place him or her
with an adoptive family, a fit and willing relative, a legal guardian, or in another planned

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permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include young adult-specific recruitment efforts such as the use of State, regional and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-state or interstate placements and intensive family finding efforts designed to facilitate connections with adult relatives or others with a significant relationship to the young adult.

g. In the case of a young adult with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under 42 U.S.C. § 673(d), a description of:
   i. The steps that the agency has taken to determine that it is not appropriate for the young adult to be returned home or adopted;
   ii. The reasons for any separation of siblings during placement;
   iii. The reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the young adult’s best interests;
   iv. The ways in which the young adult meets the eligibility requirements for a kinship guardianship assistance payment;
   v. The efforts the agency has made to discuss adoption by the young adult’s relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefore; and the efforts made by the Department to discuss with the young adult’s parent or parents the kinship guardianship assistance arrangement, or the reasons why those efforts were not made.

h. A plan for ensuring the educational stability of the young adult while in foster care, including:
   i. Assurances that the placement of the young adult in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the young adult is enrolled at the time of placement; and
   ii. If the young adult has not completed secondary education, an assurance that the Department has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the young adult remains in the school in which the young adult is enrolled at the time of placement; or
      a. If remaining in such school is not in the best interests of the young adult, assurances by the Department and local educational agencies that they will provide immediate and appropriate enrollment in a new school, with all of the educational records of the young adult provided to that school.

SECTION 402. TRANSITION PLAN
During the 90-day period immediately prior to the date on which the young adult in foster care will attain 21 years of age, or the date on which a child or young adult will exit foster care pursuant to Section 203 or 204, whether during that period foster care maintenance payments are being made on the child or young adult’s behalf, or the child or young adult is receiving benefits or services under 42 U.S.C. § 677, a caseworker on the staff of the Department shall:

1. In collaboration with, as appropriate, other representatives of the child or young adult, provide the child or young adult with assistance and support in developing a transition plan that is personalized at the direction of the child or young adult, and that includes specific
options for the child or young adult on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and that assists the child or young adult in applying for Special Immigrant Juvenile Status or other appropriate immigration relief and citizenship status, if necessary, and that this plan is as detailed as the child or young adult may elect and ensures that the child or young adult has permanent adult connections;

2. Provide the child or young adult with the following documentation:
   a. Copy of the child’s or young adult’s credit report;
   b. Copy of the child’s or young adult’s social security card;
   c. Certified copy of the child’s or young adult’s birth certificate;
   d. Copy of the child’s or young adult’s driver’s license or government issued ID card;
   e. Letter including the dates that the child or young adult was within jurisdiction of the court;
   f. Letter including a statement that the child or young adult was in foster care, in compliance with financial aid documentation requirements;
   g. The child’s or young adult’s entire educational records, obtained through a court order if necessary;
   h. The child’s or young adult’s entire health and mental health records, obtained through a court order if necessary;
   i. Documentation of the child’s or young adult’s health insurance or Medicaid;
   j. Documentation of a health power of attorney for the child or young adult;
   k. Proof of the child’s or young adult’s citizenship or legal residency;
   l. Clear and age appropriate written instructions on filing a petition for the child or young adult to re-enter care, including a completed sample petition; and
   m. The process for accessing their case file, and where applicable:
      n. Death certificates of the child’s or young adult’s parents; and
      o. Termination of Parental Rights orders.

3. Coordinate with appropriate local public and private agencies in designing the Transition Plan.

4. Coordinate the Transition Plan with any other appropriate plans, including but not limited to the Independent Living Plan (as described at 42 U.S.C. § 675(1)(D) and Section 401(b) of this sample legislation), and an Individuals with Disabilities Education Act transition plan (as described at 34 CFR § 300.347).

5. Amend and update the Transition Plan for any young adult re-entering care under Section 205.
PART III – SAMPLE LEGISLATION WITH COMMENTARY

ARTICLE 1. GENERAL PROVISIONS

SECTION 101. SHORT TITLE
This Sample State Legislation to Extend Foster Care, Adoption and Guardianship Protections, Services and Payments to Young Adults Age 18 and Older” is herein referred to as “sample legislation” or “legislation.”

SECTION 102. DEFINITIONS
For the purposes of this legislation:
1. “Administrative review” means a review open to the participation of the child or young adult and the parents, guardians, or other caretakers of the child, unless a court determines participation is not in the best interests of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or young adult or the parents who are the subject of the review, and which is equivalent to the review in which issues are addressed at permanency hearings required by 42 U.S.C. § 675(5)(C).
2. “Child” means an individual who has not attained 21 years of age.
3. “Department” means the state, county, or tribal agency responsible for rendering child welfare services.
4. “Dependency” means the basis for jurisdiction by a state, local or tribal court that encompasses civil protection and oversight of a child who has been found to be abused, neglected, or abandoned, or who has otherwise been found dependent upon Department care and support, or who has been placed in Department care through a voluntary placement agreement executed by a parent or legal guardian.
5. “Fostering Connections” refers to the federal Fostering Connections to Success and Increasing Adoptions Act, Public Law 110-351.
6. “Independent living agency” means a non-profit organization with expertise in the placement and supervision of young adults that meets any relevant licensing requirements of the state and that is operating under contract with the Department to provide placement, case management and supervision services to young adults in foster care. Primary responsibility for the young adults remains with the Department, but those responsibilities can be carried out under contract with appropriate private non-profit service providers.
7. “Independent Living Plan” means a written description of the programs and services which will help a child or young adult prepare for the transition from foster care to independent living as described in 42 U.S.C. § 675(1)(D) and Section 401(b) of this Sample Legislation.
8. “Juvenile court” means any court having dependency jurisdiction.
9. “Medical Condition” means a mental, physical, or emotional condition, including cognitive impairment or addiction.
10. “Supervised setting in which the individual lives independently” means a living arrangement, approved by the Department or an “independent living agency” where the individual lives independently, but in which he or she is provided supervision, case management and supportive services by the Department or “independent living agency” that offer
developmentally appropriate freedom and responsibility to prepare him or her for adulthood. To approve a setting the Department or “independent living agency” must ensure that:

a. Young adults are provided with a level of supervision commensurate with their individual needs, as assessed by the Department or “independent living agency,” consistent with the young adult’s medical treatment plan, including physical, mental health, and substance abuse treatment plans; permanency plan and independent living goals. Less than 24 hour on-site supervision is permitted, however, 24 hour crisis intervention and support must be available.

b. All requirements related to the case plan as established in 42 U.S.C. § 675(1), including the transition plan, and the case review system established in 42 U.S.C. § 675(5) and its required continued pursuit of permanency consistent with the permanency goal, are satisfied and integrated with the goals of the supervised setting in which the individual lives independently.

c. Young adults living independently in supervised settings are offered, at a minimum, supportive services in: life skills instruction and counseling; educational support and progress; employment preparation and placement; development and maintenance of support networks, including family; health and wellness; and housing search and placement. The determination of what services will be provided and for how long will be based on the young adult’s assessed needs, interests, and input and will be consistent with the goals set in the young adult’s case plan. Acceptance of supportive services beyond those required in section 202 by the young adult shall not be considered a condition of eligibility for placement or continuation in a supervised setting in which the individual is living independently. Provision and delivery of supportive services shall be in coordination with the local Independent Living Program.

d. Approved living settings are in compliance with all state or local health and housing codes. Approved living settings do not have to be contracted with or in the legal control of the Department or independent living agency providing supervision, case management, or supportive services, however, responsibility for the young adult remains with the Department.

11. “Transition Plan” means a personalized plan developed at the direction of a child or young adult, with the assistance and support of a caseworker and, as appropriate, other representatives of the child or young adult as described at 42 U.S.C. § 675(5)(H) and Section 402 of this Sample Legislation.

12. “Young adult” means a child who has attained 18 years of age but who has not attained 21 years of age.

Commentary

Administrative Review

42 U.S.C. § 675(6) defines administrative reviews as open to the parents of the child. However, for a child age 18 or older, who is legally an adult, participation by the parents may not be appropriate. Balancing young adults’ status as legal adults with the importance of parents’ rights in a dependency case, the presumption should be that parents, guardians, or other caretakers should participate in “administrative reviews” or hearings consistent with federal or state law, but judges may exclude them when appropriate, including at the request of the young adult. Even though the federal definition of administrative review does not explicitly require the
participation of the child, because the law now extends foster care to individuals who are legal adults, those young adults should participate in all administrative reviews.

**Child/Young Adult**

To acknowledge that young people, whether in or out of foster care, are legal adults at age 18, “young adult” is used to refer to a youth between ages 18 and 21. The definition of “child” is retained because Fostering Connections only refers to a “child” to describe the population of individuals for whom the state may continue to provide care until age 21 and because, at times, a term encompassing both young adults as well as teenagers is necessary. In some cases, the term “child” is important in reflecting that a given provision applies or may apply to not only young adults but also to children under age 18. For example, the term “child” is used in Section 402 Transition Plan because the transition plan is required 90 days prior to the child/young adult leaving foster care. If a child chooses to exit care at age 18, this transition plan is still required and would be developed when he or she is 17. If a state chooses to extend care to age 21 and a young adult remains in care until that time, then the transition plan would be developed when the “young adult” is 20 years old. Even when the word “child” is used to include young adults, this in no way limits the federal or state rights individuals have as legal adults.

**Medical Condition**

The definition of “medical condition” clarifies the scope of impairments that can be considered when determining whether a young adult is incapable of fulfilling the requirement to engage in activities outlined in Fostering Connections codified at 42 U.S.C. § 675(8)(B). This definition eliminates potential confusion that a “medical condition” would only be interpreted as a physical health impairment, rather than also including the various behavioral health, developmental, and cognitive disabilities or impairments that can serve as barriers to consistent employment and education. Currently, there is no federal definition or interpretation of “medical condition,” but consistent with providing all children and young adults the services and supports needed for a successful transition to adulthood, states are encouraged to define the term broadly. It is also important that steps be taken to help these young adults move towards independence while in care.

**Supervised Setting in which the Individual Lives Independently**

Fostering Connections requires Department of Health and Human Services (HHS) to issue regulations defining “supervised setting in which the individual lives independently” for purposes of Title IV-E. As of June 23, 2010, regulations have not been issued. The definition provided here was informed by existing effective programs and is intended to allow for a continuum of options that meet the needs of young adults at different developmental phases. This definition may need to be modified once regulations are published.

**ARTICLE 2. EXTENSION OF CARE**

**SECTION 201. ADOPTION AND GUARDIANSHIP ASSISTANCE SHALL BE EXTENDED TO AGE 21 FOR ELIGIBLE YOUNG ADULTS**

With respect to a young adult for whom an adoption assistance or kinship guardianship agreement is executed after the young adult attained 16 years of age or older, the Department
shall continue making adoption and guardianship assistance payments on behalf of that young adult until age 21.

**Commentary**

*Fostering Connections* allows states to extend Title IV-E foster care, adoption assistance, kinship guardianship assistance or any combination of the three to age 19, 20 or 21 for Title IV-E eligible young adults. This sample legislation extends foster care, adoption and kinship guardianship assistance to age 21 for all young adults, regardless of Title IV-E eligibility.

**State Considerations about Extending Kinship Guardianship and Adoption Assistance** Unlike the Title IV-E eligibility requirements for “foster care maintenance payments,” which include continued agency obligations and court review, continuing adoption and kinship guardianship assistance to young adults does not add any additional obligations or responsibilities on the Department or court. These young adults have reached permanency, and their dependency case is already, or should be, closed.

The opportunity to extend adoption and kinship guardianship assistance under Fostering Connections complements the option states have long had to extend adoption assistance to age 21 for young adults with mental or physical disabilities. While this section discusses the provision of Fostering Connections that allows states to extend adoption and kinship guardianship assistance to young adults age 18 and older, nothing in Fostering Connections alters the ability of states to extend IV-E adoption assistance to young adults with mental or physical disabilities. Effective October 1, 2010, states may now also extend kinship guardianship assistance to young adults with mental or physical disabilities to age 21 regardless of when guardianship began or whether that state decides to extend kinship guardianship assistance to youth exiting to guardianship at age 16 or older.

Under Fostering Connections, states can choose to extend only foster care for young adults age 18 and older but that may provide a disincentive to move children to permanent families from foster care. States can remove that disincentive by also extending kinship guardianship assistance and adoption assistance for young adults to age 19, 20, or 21, provided they exited from foster care at age 16 or older. Extending all three types of assistance allows young adults to pursue the most appropriate permanency option without having to make the difficult choice between permanency and receiving needed supports.

In extending kinship guardianship assistance, states may need to review their guardianship laws to determine whether amendments are needed. To ensure that children who exit to guardianship at age 16 or older can continue assistance after age 18, there must be a procedure in state law to allow kinship guardianship assistance beyond age 18. This procedure should recognize these young adults as adults with legal rights of their own but also recognize the need for continued support.

**Elimination of Income Eligibility Requirements for Title IV-E Adoption Assistance**

This sample legislation extends support to the age of 21 for all young adults who exited foster care to adoption or kinship guardianship after attaining age 16 regardless of IV-E eligibility.
Fostering Connections eliminates, on a phased-out basis, all income and resource requirements associated with eligibility for IV-E adoption assistance, including those established as part of Aid to Families with Dependent Children (AFDC). Thus states choosing to extend adoption assistance to all youth who exit foster care at age 16 or older can expect many of those costs to be eligible for IV-E reimbursement. The phase-out began October 1, 2009 with any child age 16 or older or who has spent at least 60 consecutive months in care at the time his or her adoption assistance agreement is finalized. Siblings of these children are also immediately eligible.

SECTION 202. FOSTER CARE SHALL BE EXTENDED TO AGE 21

1. Unless care and responsibility are terminated pursuant to Sections 203 or 204, the Department shall retain care and responsibility for a young adult in foster care between the ages of 18 and 21 if that young adult is:
   a. Completing secondary education or a program leading to an equivalent credential;
   b. Enrolled in an institution which provides post-secondary or vocational education;
   c. Participating in a program or activity designed to promote, or remove barriers to, employment;
   d. Employed for at least 80 hours per month; or
   e. Incapable of doing any of the activities described in subclauses a. through d. due to a medical condition, which incapability is supported by regularly updated information in the case plan of the young adult.

2. A juvenile court shall, except as provided in Sections 203 and 204, retain jurisdiction over a young adult in foster care between ages of 18 and 21 if the court assumed jurisdiction over the young adult before his or her 18th birthday.

3. Nothing in this statute shall abrogate any responsibilities of the Department or the court on behalf of the young adult, including the protections required under Section 303, or responsibilities of the young adult under state or federal law or regulation.

Commentary

Fostering Connections allows states to extend Title IV-E foster care, adoption assistance, kinship guardianship assistance or any combination of the three to age 19, 20 or 21 for Title IV-E eligible young adults. This sample legislation extends foster care, adoption and kinship guardianship assistance to age 21 for all young adults, regardless of Title IV-E eligibility.

IV-E Eligibility

While this sample legislation extends care to all young adults to age 21, regardless of Title IV-E eligibility, under Fostering Connections only those children who meet Title IV-E eligibility criteria can be supported with Title IV-E dollars. States that extend care and support to young adults who are not IV-E eligible will have to do so with state, local or other federal dollars. A number of states already provide some measure of services and supports to young adults in, or who had been in, foster care beyond age 18.

If states choose to extend federal support for young adults age 18 and older under Fostering Connections, the young adults must meet the eligibility criteria that apply to all children in foster care under 42 U.S.C. § 472, and also be engaged in one of the IV-E eligibility criteria listed in Section 202 (1)(a-e). Fostering Connections does not further clarify what —program or activity
designed to promote, or remove barriers to, employment” means. In the absence of specific federal guidance on the interpretation of this provision, states should consider including at least mental health and substance abuse treatment programs, services and supports to address domestic violence, job training activities, activities to obtain or stabilize housing or child care, English as a Second Language (ESL) instructional programs, and activities designed to eliminate legal barriers to work, keeping in mind that barriers vary based on the individual needs and circumstances of the young adult. In addition, for a child or young adult to be IV-E eligible, he or she must be living in a IV-E reimbursable placement setting, which means a foster home or child care institution, including, for young adults, a supervised setting in which the individual lives independently.”

Once the state decides to extend assistance to young adults age 18 and older, the state is obligated to serve all who are Title IV-E eligible and are participating in one of the activities above or excused from participating because of a medical condition. A state cannot pick and choose among these five categories and decide, for example, that it will only support young adults who are completing postsecondary education, but not those who are working. States do, however, have the option under Fostering Connections to limit eligibility based on age (i.e. only to young adults to age 19 or 20). Some states already use state and local funds to extend care for all young adults in foster care or all who are eligible for adoption assistance or guardianship assistance to age 21, though many of these states will have to make changes to their programs to qualify for federal support.

Extension of Court Jurisdiction
If a state opts to extend care for young adults age 18 and older as part of their Title IV-E state plan, all of the requirements of Title IV-E apply to young adults in foster care, including court oversight. This includes requirements such as holding a permanency review hearing at least once a year at which the court must make findings regarding whether reasonable efforts were made to finalize the permanency plan and what services were needed for a child age 16 or older to transition from foster care to independence. The court or administrative body must also review the child’s case plan at least once every 6 months. These hearings and reviews, coupled with transition planning efforts (described in Sections 401(b) and 402), help ensure that youth have supports, services, and permanent families or, at least, permanent connections to appropriate adults when they leave care.

Because of the need for court hearings and reviews as a mandatory element for federal IV-E reimbursement, it will be necessary for states to extend court jurisdiction for young adults age 18 and older. While some states already allow for continued court jurisdiction beyond age 18 by

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12 In addition to being required by law, research has shown that continued court oversight for youth who stay in care past age 18 is correlated with positive outcomes for older youth in care. Research also demonstrates that strong client representation and active youth involvement in court are critical. See e.g., Clark Peters, et al., Continuing in Foster Care Past Age 18: How Courts Can Help (Chapin Hall Issue Brief July 2008), located at http://www.chapinhall.org/sites/default/files/publications/Beyond%2018%20Issue%20Brief%20redesign%2002-04-09.pdf (demonstrating the importance of court advocacy and oversight in availability of placements and services, involvement of caseworkers and older adults and a more positive attitude about remaining in care beyond age 18).
court rule or statute, many states will need to extend court jurisdiction to meet Fostering Connection’s requirements.

SECTION 203. TERMINATION OF CARE—GENERAL PROVISIONS
1. The extended jurisdiction of the court and continued care and responsibilities of the Department provided for in Section 202 terminate on the earliest of:
   a. The date the young adult knowingly and voluntarily withdraws consent as set forth in Section 204;
   b. The young adult exits foster care to a permanent home consistent with his or her permanency plan; or
   c. The young adult’s 21st birthday.
2. Notwithstanding the foregoing, the court shall not terminate its jurisdiction until it finds, following a hearing held after notice to all parties, that:
   a. The Department has complied with the provisions of Section 402; or
   b. The young adult has attained the age of 21 and despite ongoing reasonable efforts on the part of the Department to provide him or her services and inform him or her of the right to remain in care beyond age 18, the young adult has not participated in the development of the Transition Plan under Section 402.

Commentary

Fostering Connections does not include a mechanism for terminating care. This sample legislation offers an approach that fully recognizes the rights of the young adult as a legal adult.

This provision makes clear that, while a young adult may at any time withdraw his or her consent to extended court jurisdiction and continued care and responsibility by the Department pursuant to Section 204, a young adult should otherwise only be discharged from the system to an arrangement where they have permanency, are safe, and will have their needs met (see Sections 401 and 402 for additional information about the need for accountability in discharge planning). Discharge from the system should be contingent on the achievement of outcomes rather than age. The option for young adults to remain in care until age 21 allows more time to achieve permanency.

This Section also emphasizes the importance of respecting the autonomy and legal rights of young adults. If, after weighing all their options and understanding the consequences of their decision, a young adult decides to leave the system, that decision must be respected.

SECTION 204. VOLUNTARY TERMINATION OF CARE
1. If the young adult withdraws consent to extended court jurisdiction and continued care and responsibility by the Department under Section 202, a court hearing must be held before court jurisdiction can be terminated and before the Department may close its case.

13 For complete list, please see http://www.childwelfarepolicy.org/pages/map.cfm?id=347&tab=&curtab=&state=#jump347.
2. At the hearing, the following criteria must be met before court jurisdiction can be terminated and before the Department may close its case:
   a. Attendance of the young adult’s attorney at the hearing; and
   b. Attendance of the young adult at the hearing; or
   c. Findings by the court that:
      i. The young adult has been informed by his or her attorney of his or her right to attend the hearing and has provided written consent to waive this right;
      ii. The young adult has been informed of the potential negative effects of terminating care early, the option to re-enter care before reaching age 21, the procedure and limitations on re-entering care, the availability of aftercare services, and that the young adult has signed a document attesting that he or she has been so informed and understands these provisions, and
      iii. The Department has complied with Section 402.
3. All provisions under Section 304 shall apply to hearings under this Section.

**Commentary**

_Fostering Connections does not include a mechanism for voluntary termination of care. Acknowledging young adults’ rights as legal adults, this sample legislation details an approach that balances those rights with important protections._

This Section specifies criteria for ensuring that, when a young adult withdraws consent to remain in care before turning 21, that the decision is truly knowing and voluntary. Several states require that a hearing be held before terminating jurisdiction of a young adult’s case. By requiring the young adult’s attendance at the hearing to terminate jurisdiction and assuring the right to legal counsel, the young adult is provided clear and specific information about his or her choice so that he or she can better plan for the future. If a young adult gives up an important legal right, necessary protections must be in place to ensure that the decision is as informed as possible. This section also ensures that a young adult who does withdraw his or her consent is fully apprised of options to re-enter care or receive other aftercare services.

**SECTION 205. OPPORTUNITY TO RE-ENTER CARE**

1. A young adult who exited foster care at or after reaching his or her 18th birthday, but before reaching age 21, may petition the court to resume dependency jurisdiction and the Department to re-open its case. The court shall resume jurisdiction and the Department shall re-open the case if the young adult is engaged in the activities described in Section 202(1).
2. The Department shall create a clear and developmentally-appropriate notice discussing the rights of young adults’ who were formerly in foster care to services under this sample legislation. The notice shall include information about what services they will be eligible for and how such services may be obtained. The Department shall disseminate this information to all young adults in foster care at their last court review before exiting care as described in Section 302 and at the hearing on their petition to resume dependency jurisdiction as described in this section.
Commentary

**Fostering Connections does not include a mechanism for re-entry into foster care after age 18. As a result, it appears that when a young adult age 18 or older leaves care and court jurisdiction is terminated they cannot later be Title IV-E eligible. This sample legislation allows young adults exiting care after age 18 to re-enter and resume court jurisdiction, though the state may not be able to obtain Title IV-E reimbursement on their behalf.**

**Many States Provide Some Support to Young Adults after Discharge**
A number of states already permit young adults age 18 or over to obtain some measure of services and supports after they leave foster care by law or policy. Many of the states that offer young adults services and supports that would be associated with re-entering care do so through an agency administrative process that does not involve the court. Alternatively, some states allow for a full re-entry by resuming responsibility for care and placement of the young adult and providing all associated services and supports, including court oversight. Fostering Connections does not interfere with these state laws or policies. However, for young adults to remain eligible for Title IV-E and, therefore, for the state to claim federal reimbursement for a young adult’s care, they must meet all Title IV-E requirements including original removal from an income eligible home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in that home would be contrary to the welfare of the child.

**Allowing Young Adults to Re-enter Care Provides a Safety Net**
A policy that allows young adults to re-enter care after age 18 provide these young adults a safety net that is similar to that provided to young adults who grow up in their own families and are able to return home when they need assistance or moral support. Young adults raised in families often have the luxury of returning home well past age 21. This same privilege should be available to young adults in foster care at least until age 21.

**Maintaining IV-E Eligibility for Youth Who Want to Live Independently**
The Department may want to keep a young adult’s case open to maintain IV-E eligibility, even though the young adult wishes to live independently. The Department may be able to keep a case open by allowing a trial discharge from care or crafting some other mechanism to maintain ongoing agency and court jurisdiction even while the youth is living independently with supervision or services. Absent some mechanism for keeping a case open, states seeking to

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16 On April 6, 2010, the Children’s Bureau issued ACYF-CB-PIQ-85-06 that included guidance related to continued IV-E eligibility when a youth resumes care after a break in placement such as when a child in foster care exits care either through a trial home visit or through a discharge, and then later re-enters care. The guidance states that the criteria in determining whether re-establishing a children’s eligibility for foster care maintenance payments under title IV-E hinges on whether the child is continuously in foster care status and remains under the responsibility of the [agency] for placement and care.” To make this determination, the agency must ask: (1) Is the child in foster care? (2) Is the original court order or voluntary placement agreement still in effect in relation to removal of the child from his home? (3) Is the child still under the responsibility of the [agency] for placement and care?” Per the guidance, if
support young adults who exit care and then want to re-enter may be unable to receive federal IV-E funding reimbursements. Maintaining young adults’ IV-E eligibility is critical to their receiving federal support and the protections under Title IV-E.

ARTICLE 3. COURT SUPERVISION

SECTION 301. LEGAL REPRESENTATION AND CASA ADVOCACY FOR THE YOUNG ADULT IN HIS OR HER DEPENDENCY CASE

1. All young adults shall be appointed an attorney who has received training appropriate to the role, and who has adequate time and resources to provide effective legal representation in the proceeding.

2. The attorney’s representation of the young adult shall be client directed, and the attorney shall be bound by the state’s Rules of Professional Responsibility.

3. The attorney shall protect the young adult’s legal rights and vigorously advocate for the young adult’s wishes and goals, including assisting the young adult as necessary to ensure that the young adult receives the services required under this sample legislation.

4. For young adults who were appointed a guardian ad litem (GAL) attorney before age 18, appointment may be continued but under a client directed model of representation.

5. If the young adult re-enters care under Section 204 and does not have an attorney, the court shall appoint one for the young adult.

6. In addition, the judge has discretion to appoint a court appointed special advocate (CASA volunteer), or continue the appointment of a CASA volunteer, with the young adult’s consent.

Commentary

Fostering Connections is silent on a young adult’s right to legal representation in his or her own dependency case. This sample legislation requires young adults to be represented by an attorney upon reaching age 18.

each of these criteria is met, then IV-E eligibility would not need to be re-established. This guidance is consistent with the sample legislation that suggests that a young adult’s child welfare case and court case must remain open to continue IV-E eligibility. The guidance later explains that if a child is discharged to the home from which he was removed, even if ongoing agency services continue, then he would not be in foster care status. However, short trial visits” to his home or to the home of a relative would not be considered interruptions in foster care status. Additionally, previous regulations indicate that the state may continue IV-E eligibility of a child, without a re-determination, as long as the trial home visit does not exceed six months in duration, unless a court orders a longer trial home visit.” If a trial home visit extends beyond six months and has not been authorized by the court, or exceeds the time period the court has deemed appropriate, and the child is subsequently returned to foster care, that placement must then be considered a new placement and title IV-E eligibility must be newly established. Under these circumstances the judicial determinations regarding contrary to the welfare and reasonable efforts to prevent removal are required. 45 C.F.R. 1356.21 (e). Read together, the new guidance and previous regulations seem to hold out the possibility that a young adult could agree to a trial discharge of less than 6 months, or longer by court order, which could facilitate the continuation of IV-E eligibility of a formerly IV-E eligible youth who resumes care. Of course, as the new guidance also makes clear, federal financial participation is only allowed during the time a child or young adult is in a licensed or approved foster care facility, which may include a supervised setting in which a child is living independently.
**Need for Legal Representation**

Children and young adults in care value having an advocate involved in their case to speak up for their needs in court, the dependency system and in the community. By acknowledging the importance of participation in every aspect of their case and planning, Fostering Connections reinforces the role of the advocate in helping children and young adults develop self advocacy skills. Attorney representation is essential for young adults to ensure that their legal rights as adults are being met, and that they are receiving the services and supports they critically need for a successful transition to adulthood. An attorney appointed to represent a young adult’s wishes is obligated to zealously advocate on behalf of his or her client. In addition to establishing a trusting relationship with the client, the attorney must provide the young adult all confidentiality protections typical of an attorney-client relationship except in very limited circumstances. The attorney appointed to represent the young adult’s wishes also acts as his or her voice in court.

**Using a Client-Directed Model of Representation**

The GAL or “best interests” model of representation for attorneys cannot be reconciled with the representation of adult clients. In the case where a state requires the attorney to act as a “best interests” advocate or GAL, legal ethics rules require that the manner of representation should change to client-directed when the child becomes a legal adult. The attorney should focus on ensuring that the young adult receives services and supports he or she wants and on providing the young adult with good counsel about his or her options, advocating for his or her legal interests, and preserving confidentiality. Importantly, the attorney will also support the young adult’s attendance and participation in court by preparing him or her beforehand and debriefing him or her afterwards. States may find that ensuring a young adult’s right to client-directed legal representation may best be accomplished through the amendment of court rules or state statute.

**Standards on Effective Advocacy**

Especially for this vulnerable population of young adults, effective legal representation by a well-trained attorney with adequate time and resources is essential. For purposes of this section, an attorney who “has adequate time and resources” means that the attorney does not have an excessive caseload size or other responsibilities rendering him or her unable to meet his or her obligations as the child’s lawyer pursuant to standards of practice promulgated by the American Bar Association and the National Association of Counsel for Children. It also means that the attorney receives reasonable and appropriate compensation for his or her time and efforts as well as expenses in connection with that representation. Furthermore, adequate and appropriate training means training that comports with recommendations in standards promulgated by the American Bar Association, the National Association of Counsel for Children, and the National Court Appointed Special Advocate Association. Fostering Connections expands the use of federal Title IV-E training funds to include training of court personnel including judges, attorneys for parents and children, court appointed special advocates, and guardians ad litem. Training for these groups will be reimbursed in FY 2010 at a 60% match and will continue to increase annually, reaching the maximum of 75% in 2013 and beyond.
CASA Advocacy
Many young adults are appointed a court appointed special advocate (CASA volunteer) before turning 18 to represent their best interests. CASA volunteers can effectively support young adults and form close relationships with them and their relatives. They can also advocate for young adults in the community, with service providers, with educational systems, with employers, and with those other individuals who play an important role in the young person's life. CASA volunteers can provide important advice to young adults. They may continue to discover new information and alternative options, help the young adult weigh those options, better understand what else is going on in the system around them, and help make sure their transition plan is progressing as the young adult wants and expects. Furthermore, and most importantly, a CASA volunteer may provide a critical permanent adult connection for the young adult. Therefore, it is important that, if a young adult consents to the continued involvement or new appointment of a CASA volunteer, that the court be given clear authority to make and continue such appointments.

SECTION 302. LAST COURT REVIEW PRIOR TO CHILD TURNING 18
1. During the last review hearing before the child turns 18, the court shall:
   a. Address whether the child plans to remain in foster care, and if so, ensure the child’s transition plan includes a plan for meeting one or more of the criteria listed in Section 202(1); and
   b. Ensure the child has been informed of:
      i. The right to request termination of dependency jurisdiction and discharge from the Department’s care;
      ii. The right to continued services, which include the Department’s obligations under Sections 202, 401 and 402; and
      iii. The opportunity to re-enter care in accordance with Section 205.
   c. If the young adult requests termination of dependency jurisdiction and discharge from the Department’s care, the court shall ensure the young adult has been informed of:
      i. Any services or benefits for which the young adult may be eligible based on being formerly in the care and custody of the Department including, but not limited to, services or benefits available under the Chafee Foster Care Independence Act, 42 U.S.C. § 677;
      ii. Any services or benefits that may be lost through termination of dependency jurisdiction; and
      iii. Any other federal, state, local, tribal or community-based services or supports available to the child.

Commentary
Fostering Connections does not articulate any unique requirements for the last court review prior to a child turning 18. This sample legislation provides an approach that helps ensure that the child is fully informed of the available options to them after attaining age 18 and that the child is fully engaged in planning for the future.

To make the most of the federal support available under Fostering Connections on behalf of young adults who remain in care, states should, during the last review hearing before the child
turns 18, ensure that the child’s transition plan includes a plan for him or her to meet one or more of the criteria listed in Section 202(1).

SECTION 303. PERIODIC REVIEWS FOR YOUNG ADULTS
With respect to any young adult who receives continued care from the Department at or after age 18 under Sections 202 and/or 205, the state shall ensure that:

1. A case review system is in place that includes:
   a. Judicial findings regarding:
      i. The status of the issues described in 42 U.S.C. § 675 (5)(A), (D), (E), (G) and (H); and
      ii. Whether reasonable efforts have been made to place siblings together unless the state documents that such a joint placement would be contrary to the safety and well being of any of the siblings, and in the case of siblings who are not jointly placed, a detailed plan for how ongoing frequent visitation or interaction will be achieved unless it is found that frequent visitation or interaction would be contrary to the safety and well being of any of the siblings.
   b. The frequency and mechanism for review described in 42 U.S.C. § 675 (5)(B),
   c. The procedural protections described in 42 U.S.C. § 675 (5)(C), including that in all permanency hearings or hearings regarding the transition of the young adult from foster care to independent living, that the court or administrative body consults, in an age-appropriate manner, with the young adult regarding the proposed permanency or transition plan for the young adult; and
   d. Any other procedural protections that apply to children under 18 under existing state or tribal law.

2. The court maintains oversight to ensure the Department is coordinating with the appropriate agencies, and, as otherwise permitted, maintains oversight of other agencies involved in implementing the young adult’s case plan, including the independent living plan and, when applicable, the transition plan.

3. The Department prepares and presents to the court a report, developed in collaboration with the young adult, addressing the young adult’s progress in meeting the goals in the case plan, including the independent living plan and transition plan, when applicable, and shall propose modifications as necessary to further those goals.

4. The court determines whether the Department and any service provider under contract with the Department is providing the appropriate services as provided in the case plan including the independent living plan, and when applicable, the transition plan.
   i. If the court believes that the young adult is entitled to additional services to achieve the goals enumerated in the case plan, under the Department’s policies, or under a contract with a service provider, the court may order the Department to take action to ensure that the young adult receives the identified services.

5. The young adult or any other party to the dependency case can request an additional hearing or review.

Commentary

By virtue of extending care for young adults beyond age 18, Fostering Connections requires the same protections, including periodic court reviews, for all children and young adults in

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care. Fostering Connections does not articulate any additional details about these periodic reviews for young adults. This sample legislation offers important details that take into account the unique needs of young adults.

**Judicial Findings in Key Areas**
If a state opts to extend care for young adults age 18 and older, all of the court related requirements of Title IV-E apply, including all of the protections guaranteed as part of the case review system defined in 42 U.S.C. § 675(5). While Fostering Connections requires continued judicial oversight of young adults’ cases, this sample legislation goes beyond it by requiring judicial findings in a number of key areas for which the Department is already held responsible. States should consider requiring these same judicial findings for all children in care.

**Importance of Periodic Reviews**
In addition to assuring compliance with the law, periodic reviews can help the young adult achieve his or her independent living and permanency planning goals through court oversight of established goals and services provided. Active engagement of the young adult as well as all parties will ensure accountability and forward movement in the case.

**Maintaining Family Connections**
Section 303(1)(a)(ii) embeds in court practice the Fostering Connections requirement related to sibling placement and visitation or other frequent ongoing contact. It does so to further promote accountability and ensure older children and young adults experience the benefits of these provisions in their efforts to achieve permanency. Likewise, identifying and notifying relatives, as is required under Fostering Connections within the first 30 days of a child or youth’s removal from his or her parents, may continue to be helpful in maintaining a young adult’s connection to his or her family and in the pursuit of permanency even after the required 30 days.

**SECTION 304. RIGHTS OF THE YOUNG ADULT**
1. Nothing in this sample legislation shall be construed to abrogate any other rights that a person, who has attained 18 years of age, may have as an adult under state law.
2. Young adults have a right to:
   a. Receive notice of case and permanency plan meetings, team decision-making meetings, administrative reviews, court hearings, and any other case-related proceedings or meetings;
   b. Be involved in the development of a personalized transition plan as described in Section 402;
   c. Be present and address the court;
   d. Legal representation as described in Section 302; and
   e. Any other privileges afforded to parties to dependency proceedings under state or tribal law.
3. If the young adult is not present at any hearing, the court shall make a finding as to whether the young adult was given notice and made an informed decision not to attend, in order to proceed with the hearing, or postpone the hearing until the young adult may attend.
**Commentary**

*Implicit in Fostering Connections is the fact that the federal law does not take away young adults’ legal rights once they turn 18. This sample legislation makes explicit that continuing in foster care does not abrogate any of young adult’s rights and, because of their adult status, makes them parties to ongoing court proceedings, if they were not already, and ensures their participation in planning for the future.*

Continuing in care as an adult presents unique, but manageable challenges to a system accustomed to the care of — children.” While the dependency system is designed to protect children and support families, a system that allows for ongoing care and supervision of legal adults must reflect a new focus on young adults’ rights. Remaining in care after turning 18 should not affect the rights that all individuals gain when they become legal adults. This is similarly true for young adults 18 and older who remain in the home of their parents—the parent can establish some conditions for the young adult to remain in the home, but the parent cannot usurp the young adult’s rights to, for example, consent to their own medical care or make their own educational decisions. This Section emphasizes this concept in the realm of court procedures and permanency reviews as well as in the service system.

**ARTICLE 4. PROGRAM STRUCTURE**

**SECTION 401. SERVICES THAT SHALL BE PROVIDED TO THE YOUNG ADULT**

1. The Department shall revise the written case plan for each young adult in foster care, after consultation with the young adult to ensure it includes at least the following:
   a. A description of the type of foster family home, institution or supervised setting in which the individual lives independently,” in which a young adult is to be placed, including a discussion of the safety and appropriateness of the placement and how the agency which is responsible for the young adult plans to carry out the voluntary placement agreement entered into, or judicial determination made, with respect to the young adult in accordance with 42 U.S.C. § 672(a)(1) and
   b. A plan for assuring that the young adult receives safe and proper care and that services are provided to the young adult, parents, and foster parents in order to improve the conditions in the parents’ home, facilitate return of the young adult to his own safe home or the permanent placement of the young adult, and address the needs of the young adult while in foster care, including a discussion of the appropriateness of the services that have been provided to the young adult under the plan.
   c. Documentation of the reasonable efforts that have been made to place siblings together, or documentation that such a joint placement would be contrary to the safety and well being of any of the siblings; and in the case of siblings who are not jointly placed, a detailed plan for how ongoing frequent visitation or interaction will be achieved or documentation that frequent visitation or interaction would be contrary to the safety and well being of any of the siblings. This documentation shall be updated in accordance with the review and updating of the case plan.
   d. The health and education records of the young adult, including the most recent information available regarding:
      i. The names and addresses of the young adult’s health and educational providers;
ii. The young adult’s grade level performance;
iii. The young adult’s school record;
iv. A record of the young adult’s immunizations;
v. The young adult’s known medical problems;
vi. The young adult’s medications; and
vii. Any other relevant health and education information concerning the young adult determined to be appropriate by the Department.

e. A written description of the programs and services that will help the young adult prepare for the transition from foster care to independent living, including, but not limited to, documentation that assistance has been provided to:
i. Complete applications for health insurance, including applications for Medicaid;
ii. Obtain referrals for, apply for, and obtain safe, stable, and age appropriate housing;
iii. Maintain relationships with individuals who are important to the young adult, including searching for individuals with whom the young adult has lost contact;
iv. Access information about maternal and paternal relatives including any siblings, unless contrary to the safety and well-being of the young adult;
v. Obtain employment or other financial support;
vi. Obtain a government issued identification card;

vii. Open and maintain a bank account;
viii. Obtain appropriate community services and programs including health, mental health, developmental disability, and other disability services and supports; and, where appropriate:
ix. Satisfy any juvenile justice system requirements and assist with expunging the young adult’s juvenile’s record;
x. Complete secondary education;
xi. Apply for admission and aid for postsecondary educational or vocational programs;

xii. Obtain the necessary state court findings and then apply for Special Immigrant Juvenile Status, or apply for other immigration relief that they may be eligible for, including achievement of citizenship status;
xiii. Create a health care power of attorney as required by P.L. 111-148;
xiv. Apply for any public benefits or benefits that he or she may be eligible for or may be due through his or her parents or relatives, including but not limited to TANF, SSI, SSDI, Survivor’s Benefits, WIC, Food Stamps, LIHEAP; and, if applicable,
xv. Assist with applying for a legal name change.

f. In the case of a young adult whose permanency plan is adoption or placement in another permanent home, documentation of the steps the Department is taking to find an adoptive family or other permanent living arrangement for the young adult to place him or her with an adoptive family, a fit and willing relative, a legal guardian, or in another planned permanent living arrangement, and to finalize the adoption or legal guardianship. At a minimum, such documentation shall include young adult-specific recruitment efforts such as the use of State, regional and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-state or interstate placements and intensive family finding efforts designed to facilitate connections with adult relatives or others with a significant relationship to the young adult.
g. In the case of a young adult with respect to whom the permanency plan is placement with a relative and receipt of kinship guardianship assistance payments under 42 U.S.C. § 673(d), a description of:
   i. The steps that the agency has taken to determine that it is not appropriate for the young adult to be returned home or adopted;
   ii. The reasons for any separation of siblings during placement;
   iii. The reasons why a permanent placement with a fit and willing relative through a kinship guardianship assistance arrangement is in the young adult’s best interests;
   iv. The ways in which the young adult meets the eligibility requirements for a kinship guardianship assistance payment;
   v. The efforts the agency has made to discuss adoption by the young adult’s relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons therefore; and the efforts made by the Department to discuss with the young adult’s parent or parents the kinship guardianship assistance arrangement, or the reasons why those efforts were not made.

h. A plan for ensuring the educational stability of the young adult while in foster care, including:
   i. Assurances that the placement of the young adult in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the young adult is enrolled at the time of placement; and
   ii. If the young adult has not completed secondary education, an assurance that the Department has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure that the young adult remains in the school in which the young adult is enrolled at the time of placement; or
      a. If remaining in such school is not in the best interests of the young adult, assurances by the Department and local educational agencies that they will provide immediate and appropriate enrollment in a new school, with all of the educational records of the young adult provided to that school.

Commentary

Fostering Connections extends to young adults all of the protections that are afforded to younger children. These include the development of a case plan consistent with 42 U.S.C. § 675 (1). This sample legislation provides additional detail in a few key areas to incorporate other requirements under Fostering Connections and to better accommodate the needs of young adults.

All children in foster care are entitled to certain protections under Title IV-E including a case plan. If a state chooses to extend care to young adults, they must be afforded these same protections. This section is taken verbatim from the definition of “case plan” at 42 U.S.C. § 675(1) except in a few areas. In Section 401(a), the reference to “supervised setting in which the individual lives independently” is added to reflect that such placements will be Title IV-E reimbursable beginning October 1, 2010 pursuant to Fostering Connections. Section 401(e) includes the federal requirement for the independent living plan described at 42 U.S.C.
675(1)(D), but additional detail is provided to assist states in developing independent living plans that are responsive to the unique needs of young adults. To make the most of the federal support available on behalf of young adults in care, states may also wish to assist the young adult in engaging in one of the Title IV-E required activities listed in Section 202(1). Finally, Section 401(c) integrates the new Title IV-E state plan requirements of Fostering Connections regarding sibling placement to help states demonstrate compliance with these provisions.

SECTION 402. TRANSITION PLAN

During the 90-day period immediately prior to the date on which the young adult in foster care will attain 21 years of age, or the date on which a child or young adult will exit foster care pursuant to Section 203 or 204, whether during that period foster care maintenance payments are being made on the child or young adult’s behalf, or the child or young adult is receiving benefits or services under 42 U.S.C. § 677, a caseworker on the staff of the Department shall:

1. In collaboration with, as appropriate, other representatives of the child or young adult, provide the child or young adult with assistance and support in developing a transition plan that is personalized at the direction of the child or young adult, and that includes specific options for the child or young adult on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports and employment services, and that assists the child or young adult in applying for Special Immigrant Juvenile Status or other appropriate immigration relief and citizenship status, if necessary, and that this plan is as detailed as the child or young adult may elect and ensures that the child or young adult has permanent adult connections;

2. Provide the child or young adult with the following documentation:
   a. Copy of the child’s or young adult’s credit report;
   b. Copy of the child’s or young adult’s social security card;
   c. Certified copy of the child’s or young adult’s birth certificate;
   d. Copy of the child’s or young adult’s driver’s license or government issued ID card;
   e. Letter including the dates that the child or young adult was within jurisdiction of the court;
   f. Letter including a statement that the child or young adult was in foster care, in compliance with financial aid documentation requirements;
   g. The child’s or young adult’s entire educational records, obtained through a court order if necessary;
   h. The child’s or young adult’s entire health and mental health records, obtained through a court order if necessary;
   i. Documentation of the child’s or young adult’s health insurance or Medicaid;
   j. Documentation of a health power of attorney for the child or young adult;
   k. Proof of the child’s or young adult’s citizenship or legal residency;
   l. Clear and age appropriate written instructions on filing a petition for the child or young adult to re-enter care, including a completed sample petition; and
   m. The process for accessing their case file, and where applicable:
   n. Death certificates of the child’s or young adult’s parents; and
   o. Termination of Parental Rights orders.

3. Coordinate with appropriate local public and private agencies in designing the Transition Plan.
4. Coordinate the Transition Plan with any other appropriate plans, including but not limited to the Independent Living Plan (as described at 42 U.S.C. § 675(1)(D) and Section 401(b) of this sample legislation), and an Individuals with Disabilities Education Act transition plan (as described at 34 CFR § 300.347).

5. Amend and update the Transition Plan for any young adult re-entering care under Section 205.

**Commentary**

_**Fostering Connections requires that a transition plan be developed 90 days before a child or young adult exits foster care. The plan must be personalized at the direction of the child or young adult and include specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employments services. This sample legislation includes additional detail on other important elements that should be included in a transition plan and how the Department should support the child or young adult in developing this plan.**_

**Mandatory Transition Plans**

Fostering Connections created a mandatory requirement that, as part of the case review system, the Department must ensure that a transition plan is developed for the child or young adult before they exit care. While the transition plan must be personalized at the direction of the child or young adult, the creation of a transition plan is mandatory and there are important steps states can take beyond what is required by Fostering Connections to ensure that a realistic and viable plan is developed.

**Providing Children and Young Adults Key Documentation**

States are encouraged to provide children and young adults with key documentation to assist them in their planning process. These documents are often critical to obtaining necessary services and accessing opportunities in adulthood – from purchasing a car to receiving medical attention to applying for employment. Children or young adults with special needs who will need to apply for SSI or supportive housing or services will be required to submit these identification documents as well as medical and other records. For children and young adults in foster care – particularly those who experienced multiple placements – these records may be difficult to locate and obtain. To execute their transition plan successfully, children and young adults should be provided with documentation that is critical to their efforts. Also to help children and young adults transition successfully, states are encouraged to coordinate the transition plan described in this Section with other transition plans and the independent living plan described in Section 401(e).
APPENDIX A

Eligibility Requirements for Title IV-E

Eligibility requirements for young adults in Title IV-E foster care - States have the option to amend their Title IV-E state plans and, if the state plan amendments are approved, states may claim federal funds for young adults in foster care beyond their 18th birthday to the age of 19, 20, or 21 beginning on October 1, 2010. With limited exceptions, states can currently only claim federal assistance for children and youth up to their 18th birthday. States will only be federally reimbursed for those young adults in foster care eligible for IV-E maintenance payments. These eligibility criteria include removal from an income-eligible home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child, being under the placement and care of the child welfare agency, and placement in a licensed foster family home or child-care institution, and who are:

- Completing secondary education or in a program leading to an equivalent credential
- Enrolled in an institution that provides post-secondary or vocational education
- Participating in a program or activity designed to promote, or remove barriers to, employment
- Employed for at least 80 hours per month, or
- If a child’s medical condition makes him or her incapable of engaging in these activities, updated information on their condition must be maintained in the child’s case plan.

Eligibility requirements for Title IV-E adoption assistance - Fostering Connections makes two important changes to the eligibility requirements for Title IV-E adoption assistance. First, upon enactment of the new law, children who would be eligible for Supplementary Security Income (SSI) benefits based solely on the medical and disability requirements are automatically considered children with special needs and eligible for adoption assistance without regard to the SSI income requirements. Second, the new law will “de-link” over time children’s eligibility for federal adoption assistance payments from outdated AFDC income requirements. Under pre-existing law, a child in foster care is eligible for federal adoption assistance only if the home they are removed from has an income that meets the state’s Aid to Families with Dependent Children (AFDC) income eligibility standard in place on July 16, 1996. As of October 1, 2009, states with federal adoption assistance programs will be able to claim federal funds for more children with special needs through phased-in de-linking of a child’s eligibility from the AFDC income criteria. In the first year, states must begin phasing in an expansion of the program to reach more eligible children with special needs, beginning with youth age 16 or older and children who already have been in care for five years, who are often the most difficult to place for adoption, as well as siblings of children who meet either of these criteria.

Other children will be phased in by age over the next nine years, so that all eligible children with special needs will be eligible for Title IV-E adoption assistance by October 1, 2017.

Currently, youth are eligible for Title IV-E adoption assistance if the youth:
- Was removed from an income-eligible home and placed into foster care pursuant to a voluntary
placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child and the child meets the definition of a child with special needs;
- Was removed from an income-eligible home and placed into foster care pursuant to a voluntary placement agreement and, while in foster care, Title IV-E foster care maintenance payments were made on the child’s behalf;
- Meets the medical and disability requirements of SSI;
- Is the child of a minor parent that meets the definition of a child with special needs; or,
- Is adopted following the dissolution of an adoptive placement in which the child was receiving Title IV-E adoption assistance.

Once the de-link is phased in, the same criteria will apply with the exception of the income requirements, which will no longer apply.

**Eligibility requirements for Title IV-E kinship guardianship assistance**

**Child’s eligibility** –
Children in relative foster homes who have resided with their prospective relative guardians for at least six consecutive months while eligible for Title IV-E maintenance payments are eligible for kinship guardianship assistance. This means that a child must meet all eligibility requirements for Title IV-E foster care, including the requirement that they were removed from an AFDC-eligible home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child and placed in a licensed or approved home. These children must also demonstrate a strong attachment to the prospective relative guardian. If age 14 or older, youth must be consulted about the guardianship arrangement before it is finalized. Siblings of children eligible for kinship guardianship assistance are also eligible for federal kinship guardianship assistance if placed in the same guardianship arrangement even when they do not meet other eligibility requirements. Additionally, all children who, as of September 30, 2008, were receiving assistance or services under a Title IV-E waiver demonstration project can continue to receive that same assistance and services when the waiver is terminated. The state expenditures on behalf of these children will continue to be eligible for federal reimbursement under Title IV-E regardless of whether the state establishes a Kinship Guardianship Assistance Program.

**Relative guardian’s eligibility** –
An eligible guardian must be a relative of the child, as defined by the state, who has a strong commitment to caring permanently for the child and has undergone criminal record checks and child abuse registry checks. The relative must also be licensed as a foster parent because the Administration for Children, Youth and Families currently requires the home to be licensed in order for the child to be eligible for Title IV-E maintenance payments and, therefore, qualify for guardianship assistance.
APPENDIX B

Additional Resources for State Implementation of the Option to Extend Foster Care and Adoption and Guardianship Assistance to Young Adults Under the Fostering Connections to Success and Increasing Adoptions Act of 2008

Frequently Asked Questions (FAQ) on the Provisions Designed to Impact Youth and Young Adults
www.nationalfostercare.org

Older Youth Provisions Principles of Implementation
www.nationalfostercare.org

Judicial Guide to Implementing the Fostering Connections to Success and Increasing Adoptions Act of 2008 (PL 110-351)
www.grandfamilies.org

New Help for Children Raised by Grandparents or Other Relatives

Need for Extended Dependency Court Jurisdiction Beyond Age 18 and State Chart of Jurisdiction
www.abanet.org/child/empowerment

State Legislation Passed in the Wake of the Fostering Connections Act
www.abanet.org/child/empowerment

Other resources available at:
- www.abanet.org/child
- www.clasp.org
- www.childrensdefense.org
- www.fosteringconnections.org
- www.jlc.org
Reasonable Accommodations in Assisted Living
Negotiated Rulemaking
Medical-Legal Partnerships
Welfare Privatization
Child Welfare Financing Reform
LGBT Elders' Economic Security and Health Care
better health, and we can at the same time assure that we’re getting better value for the dollars spent. So there are lots of different components of the law that I’m very fond of, but I really think that in any kind of major reform the whole is more than the sum of its parts. I do think the most important and exciting thing about health care reform really is the different parts and how they hang together and then therefore really advance our ability to provide better health and better health care for people.

What do you think reform will mean for lower-income individuals and specifically individuals who are covered under Medicaid?

Lower-income individuals have much to gain under the law. They are, not surprisingly, the group of people who are most disadvantaged by the current system. About two-thirds of the people who are uninsured going into enactment are people who have low incomes. Cost is a big reason why people don’t have coverage. So the Medicaid changes in particular and the availability of the exchanges and the subsidies available to people on the exchanges will have an enormous impact on the lives of low-income people. It’s pretty extraordinary that today you can be a parent whose children have grown up and left the home or somebody who has not had children at all, and, regardless of how low your income is, you may not qualify for Medicaid simply because of the historic categorical limitations. The Medicaid changes that really make everybody eligible based on income and no longer rely on those outdated categories are sweeping and benefit low-income people.

How has the passage of health care reform changed your daily work?

That’s a funny question because my daily work is about administering the Medicaid program at the federal level of Medicaid and CHIP, and so it’s changed my daily life enormously. We are of course continuing to administer the Medicaid program and CHIP. At the same time though, we are in a mad dash to assure that we are being timely, thoughtful, and collaborative as we move forward to implement the provisions that are effective right away as well as to lay the groundwork for the provisions that are effective beginning in 2014.

What is your vision for how the reform is going to play out in both the short and the long term?

In the short term there are many discrete improvements that are part of the new law. For example, even under the Medicaid eligibility changes, which for the most part become effective in 2014, there are, for the states, still options available that became effective right after enactment to cover so-called childless adults, and we already have had Connecticut and the District of Columbia take up those options. We’ve had new coverage available for young adults up to age 26 to be able to go on their parents’ policy. That’s already in effect. We’ve had a couple of changes with respect to people who have not been able to get health care coverage because of preexisting conditions; those exclusions are now prohibited in private insurance for children, and there is a new federal and state health plan available for people who otherwise can’t get insurance because of preexisting-conditions exclusions. Many provisions like that in the law have already come into effect, and many more will continue to come into effect almost every month between now and 2014.

Update: “Fostering Connections to Success: Extending a Social Safety Net for Youths Facing Homelessness and Poverty”


Below are highlights of provisions most relevant to adolescents and young adults (i.e., youths 14 to 21). Additional information about the Act is at www.fosteringconnections.org.

Criteria for Extending Benefits Past 18

The program instruction allows states some flexibility in extending foster care benefits past the age of 18 but sets the following parameters:

- The Administration on Children, Youth and Families encourages states to extend eligibility for foster care benefits to the broadest population of eligible youths, but states may select one or more of the Act's education and employment requirements (see 42 U.S.C § 675(b)(B)).

- If a state extends benefits to youths who are 19 or 20 rather than 21, it must give a programmatic or practice rationale for selecting the lower age.

- If a state extends foster care benefits to youths older than 18, it must extend adoption assistance and guardianship assistance (if applicable) to youths of the same age.

Compliance with Title IV-E Requirements for Youths Past 18

The program instruction describes the ways in which states may meet the Title IV-E requirements for foster care youths who are older than 18, specifically:

- States may meet the “removal from home” requirement (see 42 U.S.C § 672(a)(2)(A)) through continued agency responsibility of a youth for whom there was a court-ordered removal or voluntary placement agreement before age 18, court-ordered removal or voluntary placement of a youth over 18 if permitted by state law, or trial independence that does not require a new Title IV-E determination (see below).

- States may meet the “placement and care responsibility” requirement (see 42 U.S.C § 672(a)(2)(B)) through written authorization by the youth before age 18 or a court order or voluntary placement agreement after age 18 if permitted by state law.

Maintaining Title IV-E Eligibility for Reentry and Trial Independence

The program instruction sets forth the ways in which states may maintain Title IV-E eligibility for youths who return to foster care after a period of trial independence. These youths may remain eligible for Title IV-E benefits if the circumstances meet current regulatory criteria for a “trial home visit” (see 45 C.F.R. § 1356.22(e) (2008)):

- Court jurisdiction would be retained, but the youth may or may not be under the care and responsibility of the child welfare agency during the trial period.

- The youth returns to the care and responsibility of the agency within six months or a length of time specified by court order.

Supervised Setting in Which the Individual Is Living Independently

The Act added a new setting in which youths are eligible for Title IV-E reimbursement: “supervised setting in which the individual is living independently” (see 42 U.S.C. § 672(c)(2)). The Administration on Children, Youth and Families will not issue regulations on this new Title IV-E eligible setting, but the program instruction gives the following guidance to help states meet the Title IV-E criteria in these new settings:

- States have discretion to develop a range of settings that will qualify for Title IV-E funding.

- States have flexibility to determine whether settings need to be licensed and develop any necessary safety protocols.

- Examples of a “supervised setting in which the individual is living independently” that are listed in the program instruction indicate that states should consider a broad array of settings in designing these potentially Title IV-E reimbursable living arrangements; settings include host homes, college dorms, shared housing, and semisupervised settings.

- States may make foster care maintenance payments directly to youths who are living in these settings.

Court Review and Case Planning Requirements for Youths Who Remain in Foster Care Past 18

The program instruction describes how states should design court review and case planning procedures that are appropriate for young adults (see 42 U.S.C § 675(b), (c)):

- Periodic and permanency court and administrative review procedures for youths over 18 should be consistent with current law (see 42 U.S.C § 675(b)), but such procedures should be adapted for adolescents and young adults.
Youth Participation in Court Hearings

California Permanency for Youth Task Force
Recommendations to
The Blue Ribbon Commission on Children in Foster Care

Introduction:

In recent years, courts and child welfare systems around the country have recognized the importance of permanency for all foster children, including older youth,¹ and of youth participation in decisions that affect their lives.² Juvenile court officials and experts have consistently recommended that youth be present in court for permanency planning and other hearings;³ actively involving youth in court hearings can improve permanency planning and the likelihood that those plans will be carried out. For example:

• Youth can provide the court with specific information that may not be available from court reports. For example:

  … if the youth is present and the court has a question about how often the youth has seen her mother or how the youth is doing in school, the youth can provide the answer.⁴

• The court can hear directly from the youth about his or her plans and dreams as well as any challenges or problems. This will help to ensure that any orders or instructions issued by the court are realistic and meet the needs and circumstances of the individual youth. Youth participation helps to guarantee that the court, the agency and the youth are working together on common goals and gives the court an opportunity to provide encouragement and guidance.

• Participation in court hearings helps youth understand the court process and why certain decisions are being made. It also gives youth a sense of control over their lives, helping to decrease resistance to and increase participation in plans because youth feel that plans were developed with them and not done to them.

• When a youth participates in court hearings, the court gets a real picture of who the youth is. This helps to ensure the court is focused on the needs of the youth, rather than solely on the needs of the parents or the interests of the child welfare agency, and that everyone is focused on the youth’s needs for permanency.

Courts, advocates, and child welfare professionals are focusing increased attention on foster youth participation in court hearings,⁵ and national child welfare and legal standards call for youth participation unless it would be harmful to the youth.
National child welfare organizations agree that youth should participate to some extent in their child welfare hearings ... National judicial and bar associations addressing this issue have uniformly emphasized the importance of youth appearing in child abuse and neglect cases.  

However, a recent national study indicates that many youth do not attend their court hearings. The most frequently cited reasons for nonattendance were lack of notice about the date of the hearing or the right to attend. Other factors were thinking no one would listen, the need to miss school, lack of transportation, fear or nervousness about the proceedings or what would happen, anger at the system, discouragement by a social worker, and lack of appropriate court clothing.

Of those who did attend, three quarters viewed their participation as helpful, but others cast their experience in a less positive light because proceedings were inhospitable, they did not understand what was going on, or they felt they were not being heard. As one author has noted, “little guidance exists to help professionals involve children in court proceedings in meaningful ways.”

A subcommittee of the California Permanency for Youth Task Force has developed the following recommendations to further this discussion in California. These recommendations build on the broader Recommendations for Effective Partnerships on Youth Permanence to hone in on youth participation in court hearings, preparation and support for youth attending hearings, and how courts can help to assure that each youth attains permanency in as timely a manner possible.

Recommendations:

1. Youth must be able to exercise their right to attend and participate in court hearings as required by law.

In California, every foster youth has the right to be present at his or her juvenile court hearings and to make a statement to the court. In making permanency decisions, the court must consider the wishes of the youth. Foster youth who are 10 years old or older have the right to written notice of dependency hearings, and if the youth is not present in court, the court must determine whether the youth was properly notified. Foster youth also have the right to notice of juvenile court dependency hearings concerning their siblings.

- Attorneys for youth and judges should ensure that these legal requirements are met.
- Agency policy and training guidelines should reflect these legal requirements, and child welfare agencies should make sure that social workers are aware of these rights and support youth in exercising them. Social workers have a responsibility to inform foster youth of their rights, at least every six months and can help youth to understand and exercise these rights.
The court should insure that a transportation plan exists so that the youth can get to court. The youth’s attorney and the child welfare agency should work together to make sure that the youth has transportation. The plan may vary with the circumstances of the youth and the programs available. For example, if the youth is living with a foster parent who also attends court, the foster parent can transport the youth. Some counties include transportation as a contract requirement for group homes. Some counties have transportation workers who can provide a ride. In some cases, the social worker or attorney may want to transport the youth, providing them an opportunity to talk with the youth about what is going to happen and answer any last minute questions. Any transportation plan should be designed as efficiently as possible so that the youth does not spend unnecessary time at court. For example, van rides should not require the youth to wait for hours after his or her case is heard before going back home or returning to school. Transportation should be available to all youth and not limited based on the type of placement.

2. **Court proceedings should be youth friendly.**

Courts can explore creative ways of making court schedules and hearings more hospitable to youth and minimizing interference with school. For example, some courts, have established a youth calendar. Benchmark Permanency Hearings for Teens in Cook County, Illinois, and the Foster Teen Court in Tampa, Florida, devote a specific calendar to older youth in foster care. Hearings are scheduled to avoid conflict with school and other activities, and the judge actively encourages youth to participate in discussions about their future.

- The court can schedule hearings that involve youth to avoid unnecessary disruption of school and other important activities. For example, Juvenile Court in Monterey County has a monthly youth calendar that meets in the afternoon after school hours.

- The court can implement more efficient scheduling of matters, such as block time and time certain calendaring to reduce waiting time and conflicts with school or other important activities.

- Judges can provide youth with an opportunity to speak up by affirmatively asking youth for their perspective.

- The court should provide an appropriate waiting area for youth. For example, the Los Angeles Edelman Children’s Court has a space designed specifically for foster youth. State policy requires courts to endeavor to provide a children’s waiting room in each courthouse. Some courts already have children’s waiting rooms, and more will be added as court facilities are built or remodeled. Juvenile courts should make sure that age appropriate facilities are available for all youth.
• The court should provide a private area for youth who need it, such as youth who should not encounter an abusive parent in the hallway. In some circumstances special security should be arranged. Attorneys for youth should preview the situation and make appropriate arrangements so that youth do not encounter uncomfortable or dangerous situations.

• The court can work with the child welfare agency and members of the community to provide information and materials for youth. For example, Los Angeles County makes a video about the court process available in the youth waiting area, and some counties provide youth with a video or book to take with them. A DVD about the court process could be made available to youth and provided to care givers who can review it with the youth. Even items such as teddy bears, coloring books, or goodie bags can appeal to older youth as well as younger children. Any gifts should be made available to all youth and should not be limited to youth in certain circumstances (such as shelter youth or youth living with unrelated foster parents.)

• Juvenile courts should consider promulgating local rules and practice guidelines on youth participation and permanency planning so that the attorneys and all parties will understand the process and their responsibilities.

• The court and community agencies could work together to house services at the courthouse. For example, some CASA programs have an office in the court building and can provide service and support to youth on site.

3. Youth should receive support and preparation for participation in hearings.

Youth need to know what is going to happen in court and the roles each individual (e.g., the judge, attorneys, CASA, the clerk) plays; they need to understand what is expected of them and what the judge can and can’t do; and they need to be prepared for things that may happen and possible disappointments.

• The youth’s attorney should talk with youth about what is going to happen in court and what they can expect. What issues will the court address? What kind of information will be provided to the judge? What questions is the court likely to ask? What decisions will the court make? CASAs may also be able to assist the youth to understand the court process.

• Law firms or organizations that provide counsel for youth should work to minimize changes in the individual attorney who represents each youth. Changes in counsel interfere with the development of a trusting relationship and make it difficult, if not impossible, for the attorney to know and understand the youth’s situation. A good attorney-client relationship can be particularly important in helping the youth develop appropriate permanency plans that meet
the youth’s individual needs and take into account his or her dreams and aspirations.

- The youth’s social worker, CASA, and/or care provider can help the youth understand the court process. Foster parent and group home staff training on court issues could include information about how to talk with youth and help them prepare for court. Court social workers are often very busy, but have valuable experience and expertise and may be able to assist youth to understand the process.

- The youth’s attorney and social worker should communicate with each other before the hearing to discuss the youth’s situation and the agency’s plans. They can make sure that the youth is properly prepared for what is expected to happen in court. For example, the social worker could discuss the court process with the youth and provide the youth with written information, and the youth’s attorney could review the same information with the youth. Communication will help to ensure that the youth is not receiving conflicting information, that someone is taking care of important preparation details, and that the attorney and social worker are not duplicating efforts.

- If the youth is working with a therapist, the attorney and/or the social worker should communicate with the therapist to discuss permanency plans. The therapist may have valuable input and can help the youth to plan for him or herself more effectively. Therapists who work with youth should have access to information and training about the juvenile court process, child welfare policies and practices, and current thinking about foster youth permanency and family connections, so that they understand what the youth is experiencing and the systems with which the youth interacts.

- The youth’s attorney and social worker should assist the youth, or make a plan to assist the youth, to cope with possible disappointments or unexpected developments. For example, will the youth’s parents be in court? How will the youth feel if the parents are expected but don’t show up? What happens if a parent shows up under the influence of alcohol or drugs? Attorneys should have access to training, information, and mental health experts to assist them in understanding issues, such as response to grief and loss and the effects of trauma that may affect a youth’s reactions. If the youth is working with a therapist, the therapist can help the youth prepare for things that may happen and work through the youth’s response to things that do occur. The attorney or the social worker should communicate with the therapist about the court process and any issues that may be of concern to the youth so that the therapist can assist the youth to understand and work through any difficult issues.

- Youth should be provided with information about the court process when they are initially detained, before every court hearing, and at other times. For
example group homes could have information available for youth to review or take whenever they wish. The Administrative Office of the Courts (AOC) produces several publications to assist parties in understanding the juvenile court process. Attorneys, CASAs, social workers, and care providers should make these publications available to foster youth, and copies should be available in court and at the clerk’s office.

- Courts could allow youth to visit the court room, perhaps more than once, during non-court hours to get comfortable with the setting.

- Attorneys, CASAs, and the court could work together to set up a mock court for youth to learn about how the court process works and who the players are.

- Communities could develop support programs, such as providing former foster youth as mentors or peer support for youth going to court. Examples of parent support programs in San Francisco and Monterey may provide a model. Peer support can help a foster youth understand what is going to happen, what the professionals are talking about, and what youth can do in court to make sure the judge understands them and their needs. Courts might want to develop an internship that allows youth to work at court and learn about the court process.

- California Youth Connection chapters, youth mentors, and attorneys can help youth develop confidence and skills that will enable them to communicate their needs and advocate for themselves. Attorneys have training in advocacy and problem solving; they can help youth develop these skills so they can advocate for themselves.

4. **Judges, attorneys, and CASAs should understand youth development and the importance of permanency for older foster youth and have access to current information about successful program and initiatives.**

Judges, attorneys who represent youth, and CASAs should understand the importance of permanency and what it means. Judges, attorneys, and CASAs can attend conferences, such as those sponsored by the California Permanency for Youth Project. Ongoing training and conferences for lawyers and judges, such as Beyond the Bench, should continue to provide training on permanency and add a focus on assisting youth to participate in court hearings. Training topics should include:

- Current information about youth development, the effects of abuse and neglect, and the effects of separation from family and loss of important connections.

- Permanency options, including the principle that permanency is not limited to adoption but can include ongoing relationships with family members, nonrelated extended family members, and other individuals who are important to the youth.22
• How to communicate with youth in a developmentally appropriate manner; how to convey complicated legal concepts so that youth understand them; and effective ways of helping youth express themselves, particularly on painful subjects, for example, through creative writing, art, and poetry.

• The importance of sibling relationships, and the legal requirements in California for maintaining those relationships.  

• The importance of family connections and non-related extended family members, even when youth cannot be placed with family. The importance of doing as little harm as possible to youth’s connections with family and people who are important to them, and options that are available. For example California law permits open adoptions, where youth can maintain contact with his or her birth family even after adoption.

• Information about successful programs that identify permanency resources and achieve permanency for older foster youth, including new technology, such as family finding, and innovative programs, such as those that successfully reunite adolescents with birth families and arrange and support adoptions of older youth.

• Research on the success of adolescent adoptions, information about what makes these adoptions successful, and strategies for exploring adoption with older foster youth who may be skeptical or resistant.

• The importance of post adoption support, including adoption assistance, and support for other permanency options such as Kinship Care.

• Examples of model programs that include youth in court hearings.

5. Judges, attorneys, and CASAs should work with the youth and the child welfare agency to ensure that permanency planning meets the needs of the youth and that the plans are carried out.

Legal requirements for case plans, transitional independent living plans, court reports, and court reviews are designed to ensure effective permanency planning occurs and that youth are able to maintain connections with individuals who are important to them. California foster youth have the right to be involved in the development of their case plans, including plans for permanency placement. Social workers have a responsibility to solicit the youth’s input on his or her future and discuss current and future placement plans and progress with the youth. All foster youth must be given a meaningful opportunity to participate in the development of these plans and to receive information about them, including any changes to a plan; youth twelve years old and older must be given an opportunity to review, sign and receive a copy of the plan. Foster youth sixteen years old or older also have the right to information about education options.
Judges, attorneys for youth, CASAs and social workers should work with youth to ensure that permanency is considered early. Issues raised by the questions and findings required by California Welfare and Institutions Code § 391 prior to termination of jurisdiction should be addressed and resolved well before the youth is about to emancipate from foster care.

- Attorneys and judges should ensure that legal requirements for development of plans, including youth participation, are met. Judges can use judicial checklists and other resources to ensure that all essential issues are addressed.

- The youth’s attorney and social worker should talk with youth about his or her thoughts about permanency and independent living and the youth’s dreams and plans for the future. Both the attorney and the social worker can help the youth to define permanency and emancipation goals and identify what needs to happen for the youth to achieve their goals. These discussions should begin early. For example, plans for college should begin during middle school so that youth can make sure they take the appropriate courses and have an incentive to work hard and do well in school.

- Attorneys for youth should ensure that youth have sufficient information to form opinions about the appropriateness of each option and that the child welfare agency and the court consider all permanency options for older foster youth. For example, some youth may reject the idea of adoption without fully understanding what it means.

- Youth and their caregivers should be encouraged to explore redefining what adoption and legal guardianship mean to them when considering any legal permanency options.

- Attorneys for youth should ensure that youth are receiving appropriate child welfare and foster care services, such as independent living services, and ensure that receipt of independent living services does not cut off permanency planning.

- Attorneys for youth and social workers should make information about adoption assistance, KinGAP, transitional Medi-Cal, transitional housing, education and training vouchers, and other support services available to the youth, the youth’s caregiver, and other individuals who are important to the youth’s plans for permanence. The court should ensure that the youth and other relevant individuals, such as adoptive parents, have this information, and the youth’s attorney should ensure that the youth has access to the benefits and services for which he or she is eligible.

- The youth’s attorney and social worker should ensure that youth have information about education and career options. The court, the youth’s
attorney, and the social worker can work with Foster Youth Services and other experts to provide youth with information about options and to help the youth meet his or her education and career goals. Some child welfare agencies have developed an educational liaison who can help youth with these and other education issues.

- The Administrative Office of the Courts (AOC), child advocacy organizations, and or individual attorneys could develop a permanency checklist to help attorneys structure discussions with youth about permanency, gather all of the relevant information, and make sure that all of the issues are addressed.

- CASAs can help youth understand their options and make plans for the future. Some CASA volunteers have received special training in permanency and transition issues for older foster youth.

- Child welfare workers and independent living providers should meet with youth individually to discuss their plans. The results of these meetings should be included in court reports and discussed with the judge.

- Attorneys for youth and CASAs should point out permanency plans and issues to the court and should make recommendations to the court to further a youth’s plans for permanency.

- Judges should carefully review permanency plans and require child welfare agencies to explore permanency options for older foster youth when that has not occurred. Judges should ask questions to ensure that legal requirements are met.

- The AOC could provide technical assistance on ways courts can improve permanency. For example, it could
  
  - create tools for judges, such as questions the judge can ask about permanency plans, recommended follow-up actions, and examples of best practices. These tools could help enforce legal requirements, such as the preference for placement with relatives, and point out why these legal mandates are important, and help judges think through options they have when a case is in front of them.

  - provide assessments, or tools for self assessment, to help courts gauge how well they are doing on permanency policies. For example: What hours does the court hear cases that involve youth? Is there a place for youth to wait before their case to be called? What alternatives, such as mediation and alternative dispute resolution, are available?

  - help to identify and explore models within and outside California.
6. **Attorneys and judges should work with youth and other professionals to identify and remove barriers.**

Although California is ahead of many other jurisdictions in recognizing and addressing permanency needs of older foster youth, problems and barriers remain. Everyone involved in the foster care system, including attorneys, judges, CASAs, social workers, foster parents, other care providers, and foster youth should identify and suggest ways to address legal and policy barriers such as termination of state AFDC-FC (foster care maintenance) payments at age eighteen\(^\text{36}\) and limitations on college aid for youth who are adopted.

Many juvenile court judges follow model court procedures by convening regular meetings of the child welfare agency, CASAs, attorneys, and others involved in the child welfare system and juvenile court process. These meetings can provide a forum for resolving problems at the local level and can help to identify state or federal policies and laws that should improved.
The following people helped to develop these recommendations by serving on the subcommittee, providing comments, and/or providing administrative support:

Robin Allen, California CASA Association
Cyndee Borges-O’Dell, Stanislaus County
Alice Bussiere, Youth Law Center
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David Donner, Attorney, San Francisco
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Bob Friend, California Permanency for Youth Project
Karen Gunderson, California Dept of Social Services
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Alicia Priego, Office of State Senator Carol Migden
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Jennifer Rodgriguez, California Youth Connection
Jennifer Troia, California CASA Association
Diane Wagner, Los Angeles County
Cathie Watson, CASA of El Dorado
End Notes

1 See, e.g., Kristi Charles & Jennifer Nelson, Permanency Planning: Creating Life Long Connections – What Does It Mean for Adolescents? (National Resource Center for Youth Development 2000); California Permanency for Youth Project, DECLARATION OF COMMITMENT TO PERMANENT LIFELONG CONNECTIONS FOR FOSTER YOUTH (2006); Alice Bussiere, Permanence for Older Foster Youth, 44 FAMILY COURT REVIEW 231-243 (April 2006); U.S. Department of Health and Human Services, A Report to Congress on Adoption and Other Permanency Outcomes for Children in Foster Care: Focus on Older Children (Children’s Bureau 2005).


4 Andrea Khoury, Seen and Heard: Involving Children in Dependency Court, 25 CHILD LAW PRACTICE 145, 150 (December 2006);


6 Khoury, supra, at 145.

7 Home at Last, supra, at 4-5. See detail at 9-10.

8 Id. at 12.

9 Id. at 5 & 13.

10 Khoury, supra, at 145.

11 http://www.cpyp.org/taskforce.html

12 Mardith J. Louisell, Recommendations for Effective Partnerships on Youth Permanence Between the Juvenile Court and Child Welfare (California Permanency for Youth Project 2006).

13 Cal. Welf. & Inst. Code §§ 349 & 16001.9(17); California Rules of Court Rule 5.530(b).


18 Khoury, supra, at 154.


20 American Bar Association, Center on Children and the Law, Using Non-Judicial Court Staff to Help Achieve Permanency for Children.


22 See, Reina M. Sanchez, Youth Perspectives on Permanency (California Permanency for Youth Project 2004), Charles & Nelson, supra, Bussiere, supra, at 233-234.

23 For example, the court and child welfare agency must make efforts to place siblings together and maintain sibling relationships when appropriate, Cal. Welf. & Inst. Code §§ 361.2(i), 366.1(f), 366.3(e)(9), & 16002; the court must consider the effect on sibling relationships in deciding whether to terminate parental rights; Cal. Welf. & Inst. Code § 366.26(c)(1)(E); and the court may provide for postadoption sibling contact. Cal. Welf. & Inst. Code § 366.29(a).


29 Cal. Welf. & Inst. Code § 16001.9(a)(19)

30 MPP 31-320.114.


36 Eligibility for state AFDC-FC benefits ends when the youth turns 18, or 19 if the youth is in an education or training program and can demonstrate that he or she is reasonably expected to finish the program by his or her 19th birthday. Cal. Welf. & Inst. Code § 11403.
California Welfare and Institution Code §391.

(a) The dependency court shall not terminate jurisdiction over a nonminor unless a hearing is conducted pursuant to this section.

(b) At any hearing for a nonminor at which the court is considering termination of the jurisdiction of the juvenile court, the county welfare department shall do all of the following:
   (1) Ensure that the dependent nonminor is present in court, unless the nonminor does not wish to appear in court, and elects a telephonic appearance, or document reasonable efforts made by the county welfare department to locate the nonminor when the nonminor is not available.
   (2) Submit a report describing whether it is in the nonminor's best interests to remain under the court's dependency jurisdiction, which includes a recommended transitional independent living case plan for the nonminor when the report describes continuing dependency jurisdiction as being in the nonminor's best interest.
   (3) If the county welfare department recommends termination of the court's dependency jurisdiction, submit documentation of the reasonable efforts made by the department to provide the nonminor with the assistance needed to meet or maintain eligibility as a nonminor dependent, as defined in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.
   (4) If the nonminor has indicated that he or she does not want dependency jurisdiction to continue, the report shall address the manner in which the nonminor was advised of his or her options, including the benefits of remaining in foster care, and of his or her right to reenter foster care and to file a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction prior to attaining 21 years of age.

(c) (1) The court shall continue dependency jurisdiction over a nonminor who meets the definition of a nonminor dependent as described in subdivision (v) of Section 11400 unless the court finds either of the following:
   (A) That the nonminor does not wish to remain subject to dependency jurisdiction.
   (B) That the nonminor is not participating in a reasonable and appropriate transitional independent living case plan.
   (2) In making the findings pursuant to paragraph (1), the court must also find that the nonminor has been informed of his or her options including the benefits of remaining in foster care and the right to reenter foster care by filing a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction and by completing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, and has had an opportunity to confer with his or her counsel if counsel has been appointed pursuant to Section 317.

(d) (1) The court may terminate its jurisdiction over a nonminor if the court finds after reasonable and documented efforts the nonminor cannot be located.
   (2) When terminating dependency jurisdiction the court shall maintain general jurisdiction over the nonminor to allow for the filing of a petition to resume dependency jurisdiction under
subdivision (e) of Section 388 until the nonminor attains 21 years of age, although no review proceedings shall be required. A nonminor may petition the court pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction at any time before attaining 21 years of age.

(e) The court shall not terminate dependency jurisdiction over a nonminor dependent who has attained 18 years of age until a hearing is conducted pursuant to this section and the department has submitted a report verifying that the following information, documents, and services have been provided to the nonminor, or in the case of a nonminor who, after reasonable efforts by the county welfare department, cannot be located, verifying the efforts made to make the following available to the nonminor:

1. Written information concerning the nonminor's dependency case, including any known information regarding the nonminor's Indian heritage or tribal connections, if applicable, his or her family history and placement history, any photographs of the nonminor or his or her family in the possession of the county welfare department, other than forensic photographs, the whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of the sibling, directions on how to access the documents the nonminor is entitled to inspect under Section 827, and the date on which the jurisdiction of the juvenile court would be terminated.

2. The following documents:
   (A) Social security card.
   (B) Certified copy of his or her birth certificate.
   (C) Health and education summary, as described in subdivision (a) of Section 16010.
   (D) Driver's license, as described in Section 12500 of the Vehicle Code, or identification card, as described in Section 13000 of the Vehicle Code.
   (E) A letter prepared by the county welfare department that includes the following information:
      (i) The nonminor's name and date of birth.
      (ii) The dates during which the nonminor was within the jurisdiction of the juvenile court.
      (iii) A statement that the nonminor was a foster youth in compliance with state and federal financial aid documentation requirements.
   (F) If applicable, the death certificate of the parent or parents.
   (G) If applicable, proof of the nonminor's citizenship or legal residence.
   (H) An advance healthcare directive form.
   (I) The Judicial Council form that the nonminor would use to file a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction.
   (J) The written 90-day transition plan prepared pursuant to Section 16501.1.

3. Assistance in completing an application for Medi-Cal or assistance in obtaining other health insurance.

4. Referrals to transitional housing, if available, or assistance in securing other housing.

5. Assistance in obtaining employment or other financial support.

6. Assistance in applying for admission to college or to a vocational training program or other educational institution and in obtaining financial aid, where appropriate.
(7) Assistance in maintaining relationships with individuals who are important to a nonminor who has been in out-of-home placement for six months or longer from the date the nonminor entered foster care, based on the nonminor's best interests.

(8) For nonminors between 18 and 21 years of age, assistance in accessing the Independent Living Aftercare Program in the nonminor's county of residence, and, upon the nonminor's request, assistance in completing a voluntary reentry agreement for care and placement pursuant to subdivision (z) of Section 11400 and in filing a petition pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction.

(9) Written information notifying the child that current or former dependent children who are or have been in foster care are granted a preference for student assistant or internship positions with state agencies pursuant to Section 18220 of the Government Code. The preference shall be granted to applicants up to 26 years of age.

(f) At the hearing closest to and before a dependent minor's 18th birthday and every review hearing thereafter for nonminors, the department shall submit a report describing efforts toward completing the items described in paragraph (2) of subdivision (e).

(g) The Judicial Council shall develop and implement standards, and develop and adopt appropriate forms necessary to implement this provision.

(h) This section shall become operative on January 1, 2012.
RULE 1608. PERMANENCY HEARING

D. Court’s findings.

1) Findings at all six-month hearings. At the permanency hearing, the court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 1609. On the record in open court, the court shall state:

j) the services needed to assist a child who is sixteen years of age or older to make the transition to independent living, including:

i) the specific independent living services or instructions that are currently being provided by the county agency or private provider;

ii) the areas of need in independent living instruction that have been identified by the independent living assessment completed pursuant to the Chafee Act, 42 U.S.C. § 671 et seq.;

iii) the independent living services that the child will receive prior to the next permanency review hearing;

iv) whether the child is in the least restrictive, most family-like setting that will enable him to develop independent living skills;

v) the efforts that have been made to develop and maintain connections with supportive adults regardless of placement type;

vi) whether the child is making adequate educational progress to graduate from high school or whether the child is enrolled in another specified educational program that will assist the child in achieving self-sufficiency;

vii) the job readiness services that have been provided to the child and the employment/career goals that have been established;

viii) whether the child has physical health or behavioral health needs that will require continued services into adulthood; and

ix) the steps being taken to ensure that the youth will have stable housing or living arrangements when discharged from care; and

k) any educational, health care, and disability needs of the child and the plan to ensure those needs are met.
RULE 1613. TERMINATION OF COURT SUPERVISION

A. Concluding Supervision. Any party, or the court on its own motion, may move for the termination of supervision when court-ordered services from the county agency are no longer needed and:

* * *

E. Children eighteen years of age or older.

1) Before the court can terminate its supervision of a child who is eighteen years of age or older, a hearing shall be held at least ninety days prior to termination.

2) Prior to the hearing, the child shall have the opportunity to make decisions about the transition plan and confer with the county agency about the details of the plan. The transition plan shall, at a minimum, include:

   a) the specific plans for housing;
   b) a description of the child’s source of income;
   c) the specific plans for pursuing educational or vocational training goals;
   d) the child’s employment goals and whether the child is employed;
   e) a description of the health insurance plan that the child is expected to obtain and any continued health or behavioral health needs of the child;
   f) a description of any available programs that would provide mentors or assistance in establishing positive adult connections;
   g) verification that all vital identification documents and records have been provided to the child; and
   h) a description of any other needed support services.

3) At the hearing, the court shall review the transition plan for the child. If the court is not satisfied that the requirements of paragraph (E)(2) have been met, a subsequent hearing shall be scheduled.

4) The court shall not terminate its supervision of the child without approving an appropriate transition plan, unless the child, after an appropriate transition plan has been offered, is unwilling to consent to the supervision and the court determines termination is warranted.

F. Cessation of services. When all of the above listed requirements have been met, the court may discharge the child from its supervision and close the case.
<table>
<thead>
<tr>
<th></th>
<th><strong>Independent Living Services Matrix</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td><strong>ILP Coordinators Meeting</strong></td>
</tr>
<tr>
<td></td>
<td>Held 2 times per year</td>
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<tr>
<td>2</td>
<td><strong>ILP Orientation</strong></td>
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<tr>
<td></td>
<td>Held 2 times per year (once in the beginning of the year; once at mid-point)</td>
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<tr>
<td></td>
<td>Orientation for high school Juniors &amp; Seniors (typically in 2nd semester of the year)</td>
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<tr>
<td></td>
<td>Orientation for college &amp; continuing education youth (late July/early August)</td>
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<tr>
<td>3</td>
<td><strong>ILP Workshops</strong></td>
</tr>
<tr>
<td></td>
<td>held monthly</td>
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<tr>
<td>4</td>
<td><strong>Casey Life Skills Assessment</strong></td>
</tr>
<tr>
<td></td>
<td>Should be completed at least 1 time per year up to age 17.5 <em>(N.B.: done individually)</em></td>
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<tr>
<td></td>
<td>Youth Centered Family Team Meeting or a Transition Roundtable to review the results of the Casey Life Skills Assessment</td>
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<tr>
<td>5</td>
<td><strong>Special Immigration Juvenile Status</strong></td>
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<td><em>No set stakeholder meeting to address this part of the population; Case managers deal with issues individually</em></td>
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<tr>
<td>6</td>
<td><strong>Written Transitional Living Planning</strong></td>
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<td>Develop a WTLP within 30 days of: (a) youth in foster care on 14th birthday; or (b) youth age 14-17 upon entering foster care</td>
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<td></td>
<td>Youth Centered Family Team Meeting held to develop and implement a youth's WTLP</td>
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<td>Transition Roundtables (TRT) held as a forum to develop and implement the WTLP for all youth with a permanency plan of APPLY</td>
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<tr>
<td></td>
<td>Youth Centered Family Team Meeting held when emerging needs are identified, goals on the WTLP are achieved, or new services are court ordered</td>
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<td>WTLP is amended and revised:</td>
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<td>at a minimum every 6 months</td>
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<td>When the youth reaches 16</td>
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<td>When the youth reaches 17 1/2 upon completion of the Casey Life Skills Assessment, if new needs are identified</td>
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<tr>
<td></td>
<td>90 days prior to the youth’s 18th birthday</td>
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<tr>
<td></td>
<td>90 days prior to the youth’s exit from foster care</td>
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</tbody>
</table>
|   | Extended Youth Supportive Services (EYSS) | Within 30 days of the youth signing the Consent to Receive Extended Youth Supportive Services (for youth (18 and older) requesting to return to care through EYSS)  
Transition Roundtable held within 10 calendar days of the youth or county's request to discontinue EYSS services  
Beginning at age 16, SSCM will provide the youth with information regarding the criteria needed to approve the youth to receive EYSS beyond age 18 up to 21  
Develop or update the WTLP with the youth at the Transitioning Roundtable  
The criteria and process to receive EYSS should be reiterated with the youth at the Transition Roundtable (TRT) that is to be held no later than 6 months prior to the youth reaching age 18 and within 90 days prior to the youth turning 18 |
|---|---|---|
|   | Transition Roundtable (TRT) | Transition Roundtables (TRT) held as a forum to develop and implement the WTLP for all youth with a permanency plan of APPLY  
held at age 17 to develop and implement the transition plan for youth in care  
held at age 17.5 to develop and implement the transition plan for youth in care  
held 90 says prior to the youth's 18th birthday to develop and implement the transition plan for youth in care |
|   | Individual Development Accounts (IDA) Orientation | Held at least 2 times per year |
|   | Credit Reports | Federal requirements are not currently being implemented |
When children are involuntarily removed from their natural families, the state assumes responsibility for them—either helping them achieve permanency or preparing them for life on their own. For older youth who will age out of foster care, the state must help them become self-sufficient, wage-earning productive citizens. How well do states live up to that challenge? The large numbers of former foster children who become homeless adults suggests improvements are needed.

Roughly 540,000 children live in out-of-home care in our nation’s foster care system. The majority of these children will leave the system to be reconciled with their families. Most of the rest will be adopted or placed in the care of a legal guardian. About 7% of these children will age out of care, either by reaching the age of majority (18), or by graduating from high school.1

This article:
- discusses how federal child welfare mandates leave older youth vulnerable to care and homelessness; and
- shares how a promising Cincinnati, Ohio program—Lighthouse Youth Services—is helping older foster youth avoid homelessness and successfully transition into adulthood.

Child Welfare Mandates and Older Youth

The child welfare system has at its core three fundamental missions: child well-being, safety, and permanence. The system heavily depends on federal funding through Title IV-E of the Social Security Act (42 U.S.C. §670). States can claim IV-E reimbursement for children whose parents would have been eligible for Aid to Families with Dependent Children (AFDC) at the time the child was removed from parental custody.

For states to be eligible for Title IV-E funding, they must comply with many federal regulations. Recent audits conducted by the U.S. Department of Health and Human Services have found few states are meeting federal standards, thus risking continued federal funding.

These standards, with their strong emphasis on safety and permanency, greatly influence the policies and procedures of local public child welfare agencies. An unintended consequence of this mission is that it conflicts with the hard realities faced by older foster children. These youth, often at age 18, are expected to live on their own when they are suddenly terminated from care.

In our country, age 18 is generally when young people are legally considered able to assume the full rights, duties, and privileges of citizenship. For most 18 year olds, it is a time for them to leave home for college, join the military, or move to...
an apartment with a roommate after finding a full-time job.

Many foster youth have the good fortune of living for many years in the home of a loving and caring foster family who supports them through college or otherwise. These foster families are there for them during the first few years after foster care payments end. In contrast, thousands of older youth age out of care at age 18 without the benefit of long-term, nurturing relationships with a foster parent who is willing to support them without state financial support. These youth are most vulnerable to becoming homeless after leaving foster care.

Foster Care and Homelessness

In the late 1980s, the National Alliance to End Homelessness (the Alliance) began investigating the relationship between foster care placement and homelessness. In their examination, the Alliance used four sources of information:

1. existing research on the connection between foster care and homelessness;
2. data from organizations that serve homeless people and gather information on their clients’ foster care history;
3. data obtained directly from a sample of homeless people; and
4. case studies of people who were homeless and who have a foster care history.2

The principal findings of this study were:

- People with a foster care history are overrepresented in the homeless population.
- Homeless people with a foster care history are more likely than other people to have their own children in foster care.
- Those people with a foster care history tend to become homeless at an earlier age than those with no foster care history.
- Childhood placement in foster care correlates with an increase in the length of a person’s homeless experience.

The Alliance study found that youth are the most rapidly increasing group in the national homelessness population. While single men represent over half of the homeless population, families with children represent 30% of the homeless population, and youth account for at least 20% of the total homeless population. Based on the Alliance’s estimates that on any given night over 730,000 Americans are homeless, their study suggests that roughly 146,000 youth are homeless on any given night. The Alliance reports that over a year, between 1.3 million to 2 million Americans are homeless, and that there may be as many as 400,000 homeless youth each year.

Other studies have found that people with a foster care history are overrepresented in the homeless population. For example:

- Piliavin, L., et al.3 found that “of 331 homeless adults in Minnesota, 38.6% reported childhood placement in foster care, as opposed to 2% of the general population.”

- Susser, E.S., et al.4 found that “of 223 men entering the New York City shelter system for the first time, 23% reported being placed in foster care, group homes, or other special residences.”

- Owen et al.5 found that “in Minnesota, rural or urban residence made very little difference in the likelihood that a homeless person would have experienced foster care.” Examining several types of rural facilities, they found that 20% of the people in transitional housing had a childhood foster care experience; 20% of the women in battered women’s shelters had a foster care history; and 13% in emergency shelters had a foster care history; and 26% in battered women’s shelters had a foster care history. In comparison, in urban Minnesota, the numbers of homeless people with foster care histories were 21% in transitional housing; nearly 22% in battered women’s shelters; and 26% in emergency shelters.

Lighthouse Youth Services: Providing Safe Transitions

About Lighthouse

One of the very first organized attempts to reduce the number of
foster children moving into the adult homeless population occurred in Cincinnati, Ohio. Lighthouse Youth Services, a community-based family and youth services agency, began addressing the issue of older youth aging out of the child welfare system in 1981. Twelve years before then, Lighthouse successfully operated as a small community agency serving runaway and homeless youth in its youth shelter. It also served boys and girls in the foster care system through its two group homes and its foster care network.

The Lighthouse Youth Crisis Center, one of the first federally funded runaway and homeless youth shelters in the country, began in 1975 as Cincinnati’s first and only emergency crisis shelter for youth. Under federal regulations that prohibited the Youth Crisis Center from mixing youth over 18 with adolescents, the Center could not serve youth who often called with such messages as: “Hey. It’s Marchelle remember me? I was the girl who stayed with you last year when I was kicked out of my foster home. I was just released from the psych unit. I don’t know where to go.”

Even more heartbreaking were calls from young adults who had done well while living in Lighthouse group or foster homes. A typical call went something like: “It’s Renee. Remember me? Mom’s boyfriend hit on me again. I gotta leave. I’m pregnant.”

With the support of Lighthouse board members and counter to prudent risk management, Lighthouse obtained permission from the Hamilton County Juvenile Court and the Hamilton County Children’s Services Department to implement an independent living program. This program uses a simple, straightforward approach to ease the transition from foster care to independence. Lighthouse provides housing and case management for young adults age 18 through 24 in agency-owned, supervised apartment buildings and scattered site apartments.

Selecting Youth
Children’s Services caseworkers identify foster youth who are within a year or so of being terminated from care. The caseworkers focus on foster youth whose natural families have not been engaged with the youth—youth with little hope of securing family assistance once they leave care. Some youth are chosen for the independent living program based on their maturity and likelihood of success. Others are selected for the opposite reason—they have been kicked out of many placements and are likely to be kicked out or run from their current placement without a successful transition plan in place.

Providing a Place to Call Home
The most important aspect of the Lighthouse independent living program is that it creates the opportunity for young people about to age out of the system to be placed in their own apartment—often without a roommate—to begin to learn how to make that important transition. A range of housing options are necessary, based on client need and geographical considerations. Lighthouse offers a continuum of housing options for older youth aging out of the child welfare system and older street youth, including:

1. Scattered sites apartments: Lighthouse staff help clients look for an apartment in a part of the community that makes sense for each young person—close to school, a job, extended family members, former foster parents, or friends. Lighthouse pays the deposit and leases the apartment from the landlords. Lighthouse then fully equips and supplies the apartment with furniture and furnishings gathered from donations, garage sales, and thrift shops.

2. Shared homes: For special needs clients or for those unwilling to live on their own in a scattered site apartment, Lighthouse has several shared homes throughout

Agency Director’s Perspective
With the past three years, Hamilton County, the community and Lighthouse have focused heavily upon improving transitional services for our foster youth. In 2004, Hamilton County entered into a contract with Lighthouse to provide housing and case management for youth post emancipation. This program serves approximately 12-to-16 youth annually. Our partnership capitalizes on each of our systems’ strengths as we engage in service delivery for our youth.

—Moira Weir, Assistant Director Children’s Services
Hamilton County Job & Family Services
the community. These are homes where two or three residents share the home with a Lighthouse staff member. The staff person is typically a college-age student whose primary responsibility is to make sure the home is maintained properly, report any problems to Lighthouse social workers, and provide emergency help when a client requires it. Otherwise, youth living in the shared home negotiate life on their own in a similar fashion to those who live in their own scattered site apartment.

3. Host homes: Lighthouse finds families who are willing to allow Lighthouse clients to board with them. Host homes are often used in rural situations where the availability of apartments or other rental units is limited. Host home families also provide transportation to areas unserved by public transportation or provide other limited support services based on the client’s needs.

4. Agency-owned apartment buildings: Lighthouse owns several multi-unit apartment buildings. A live-in staff member stays in one unit, with the remaining units “rented” by Lighthouse clients. Typically, the agency-owned apartment buildings serve older homeless youth coming to Lighthouse directly from adult shelters or from the streets. Under HUD requirements, clients are required to pay rent up to 1/3 their adjusted gross income. Clients living in agency-owned apartment buildings are responsible for their apartments, just as a young person in a scattered site apartment would be.

Growth through Adversity
A basic tenet of the Lighthouse independent living program is that people who experience stress frequently report that they are positively changed by the experience. Lighthouse intentionally places the youth in a challenging situation of stress and adversity—a living situation that requires the youth to make important daily decisions on his or her own every day. The stressors immediately introduced into the lives of these young people include:

- loneliness
- navigating public transportation;
- buying groceries
- preparing meals
- getting a job and keeping it
- getting to work on time
- balancing a checkbook
- living within a budget
- dealing with friends and family who may seek to take advantage finishing school or GED

The struggle to cope with an adverse event can lead to increased coping skills, and enhanced self-efficacy and hence, an increased ability to prevent and cope with future stressors. Traumatic events, such as moving into that first apartment to live on their own, offer opportunities for Lighthouse clients to enhance their self-efficacy by successfully managing new tasks and comparing themselves favorably with others who have faced similar events.

Albert Bandura, a psychologist famous for his work on social learning theory, proposed that “no other kind of thought is more central to people’s behavior than judgments of their capabilities to exercise control over events in their lives. It is partly on the basis of judgments of personal efficacy that people choose what to do, how much effort to invest in activities and how long to persevere in the face of obstacles and failure experiences.”

Learning by Doing
The second fundamental tenet in the Lighthouse Independent Living program is that young people learn by doing. Lighthouse staff realized early that “independent living without a housing experience was like taking driver’s education without ever driving a car.”

Addressing Practical Matters
Lighthouse’s success depends on its ability to tend to practical matters, including:

1. Program funding. For clients in the custody of the child welfare system, Lighthouse negotiates a per diem rate that pays for the apartment and utilities; a weekly allowance for the young person; and case management and counseling services. For older youth coming to the agency directly from the street or from adult

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**Judge’s Perspective**

Lighthouse Youth Services, the Hamilton County Juvenile Court, the Hamilton County Children’s Services, the Guardian ad Litem office, and ProK ids—our local Court Appointed Special Advocates (CASA)—have created one of the best systems in the country for transitioning young people out of the foster care system into independent living. Our court and child-serving agencies working in cooperation have the same attitude of obligation toward our children as do parents with their own offspring and we feel the same pride watching them mature into independent adults.

— Hon. Thomas R. Lipps, Presiding Administrative Judge, Hamilton County Juvenile Court, Cincinnati, Ohio
homeless shelters, Lighthouse relies on funding from the Department of Housing and Urban Development, the Ohio Department of Development, the City of Cincinnati, United Way, and private contributions.

2. Risk management and liability issues. On its face, it would seem far riskier to place a person on his own, than in an apartment with adult supervision. However, Lighthouse has learned through 38 years of experience that housing youth in group homes and other group living situations is generally riskier than placing a young person in an apartment on his or her own. Weekly supervision, through announced and unannounced visits, and weekly scheduled appointments in the social worker’s office, provide clear evidence when a young person may need to be quickly removed from the apartment and placed in a staff supervised setting.

3. Landlord’s hesitancy to rent to teens. Typically, landlords first resist the notion of renting an apartment to a 17 or 18 year old. However, once the landlord understands that the lease is with Lighthouse Youth Services and that Lighthouse will assume full responsibility for paying rents on time, maintaining the cleanliness and upkeep of the apartment, and removing the resident when required, the landlords are much more willing to consider renting. There are a few landlords who will never rent to Lighthouse again, but many routinely contact Lighthouse when apartments become available.

Measuring Success
Lighthouse measures success mainly by whether or not the young person has demonstrated positive outcomes, such as:

- maintained himself or herself in the apartment with a minimum of crises;
- found and kept a “living wage” job;
- completed a GED or high school diploma;
- saved enough money to meet emergency requirements; and
- shown an ability to maintain the apartment upon termination from the independent living program.

Lighthouse also uses pre- and post tests to measure attitudes, behaviors, and personal responsibility. Over a recent five-year period, 69% of the young people exiting independent living did so successfully. Of this group, 34% were able to maintain the same apartment, assuming full financial responsibility; 23% moved into supported housing and were able to live on their own; 34% found a friend or family member to share an apartment and moved successfully; and 9% reconciled with their natural family. At discharge, 44% had full-time jobs; 10% had two or more part-time jobs; and 17% had one part time job. Altogether, 88% showed measurable improvement in self

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Runaway and Homeless Youth Act Offers Protections

Congressional interest in protecting and providing services to runaway and homeless youth prompted passage of the Runaway and Homeless Youth Act (RHYA) in the 1970s. A recent report for Congress, Runaway and Homeless Youth: Demographics, Programs, and Emerging Issues, published in January 2007, details this act and offers useful information for advocates who work with this population. Issues the report addresses include:

- Characteristics of the runaway and homeless youth population.
- Challenges in defining runaway and homeless youth and factors that influence homelessness and leaving home.
- Risks of running away and becoming homeless for youth who age out of the foster care system and youth in foster care.
- Evolution of the RHYA since the 1970s through its last amendment in 2003 and its protections and services.
- Descriptions of the three core programs funded by RHYA—Basic Center Program, Transitional Living Program, and Street Outreach Program.
- Critical issues under consideration as the RHYA faces funding reauthorization by Congress, include:
  - Need for bilingual program staff to support youth and families whose language is not English.
  - Need for maternity group homes to support services for pregnant and parenting runaway/homeless youth.
  - Need to evaluate youth outcomes to capture how youth fare long term after leaving runaway and homeless youth programs.
  - Need to understand characteristics of “disconnectedness” among youth and its relationship to running away and becoming homeless.

This report is available online: www.endhomelessness.org/files/1451_file_Runaway_and_Homeless_YouthRL33785.pdf
sufficiency skills based on pre- and post-test results.

Conclusion
The experiences gained by Lighthouse Youth Services over the many years of work in this area have informed local and national practice in this important area of youth work. Much more needs to be done in terms of research and outcome measurement before this approach to preparing foster youth for self-sufficiency and diverting them from homelessness can be proven best practice. However, it clearly is promising and will continue to evolve as ongoing data and process analysis reveal opportunities for improvement.

Bob Mecum, is the chief executive officer of Lighthouse Youth Services in Cincinnati, where he has served since 1978. Under his watch, Lighthouse has grown from a runaway shelter to a $19 million, statewide youth and family service organization. Mecum has consulted with federal, state, and local agencies for more than 25 years, focusing on juvenile justice, child welfare, and mental health issues.

Endnotes
3. Ibid.
7. Kroner, Mark, Program Director, Lighthouse Youth Service Independent Living Program.

Youth homelessness is disturbingly common. Although the prevalence of youth homelessness is difficult to measure, researchers estimate that about 5 to 7.7 percent of youth—about 1 million to 1.6 million youth per year—experience homelessness.

Homelessness has serious consequences for youth. It is especially dangerous for youth between the ages of 16 and 24 who do not have familial support. Living in shelters or on the streets, unaccompanied homeless youth are at a higher risk for physical and sexual assault or abuse and physical illness, including HIV/AIDS. It is estimated that 5,000 unaccompanied youth die each year as a result of assault, illness, or suicide. Furthermore, homeless youth are at a higher risk for anxiety disorders, depression, post-traumatic stress disorder, and suicide due to increased exposure to violence while living on their own.

Homeless youth are also more likely to become involved in prostitution, to use and abuse drugs, and to engage in other dangerous and illegal behaviors.

This article reviews the key issues surrounding youth homelessness, including causes and characteristics of homeless youth. For purposes of the brief, the definition of homeless youth includes any youth between the ages of 16 and 24 who do not have familial support and are unaccompanied—living in shelters or on the street.

Causes of Youth Homelessness
Although the causes for homelessness among youth vary greatly by individual, the underlying themes among these causes reveal a strong link between homelessness and broader social issues including:

Family Breakdown
The same factors that contribute to adult homelessness such as poverty, lack of affordable housing, low education levels, unemployment, mental health, and substance abuse issues can also play a role in the occurrence and duration of a youth’s homelessness. Beyond those factors, the phenomenon of youth homelessness is largely a reflection of family dysfunction and breakdown, specifically familial conflict, abuse, and disruption.

Youth usually enter a state of homelessness as a result of:

- Running away from home;
- Being locked out or abandoned by their parents or guardians; or
- Running or being emancipated or discharged from institutional or other state care.

Although family conflict also plays a part in adult homelessness, the nexus is more critical for youth since they are, by virtue of their developmental stage in life, still largely financially, emotionally, and, depending on their age, legally dependent upon their families.

Systems Failure
In addition, many youth become homeless due to systems failure of mainstream programs like child welfare, juvenile corrections, and mental health programs. Every year between 20,000 and 25,000 youth ages 16 and older transition from foster care to legal emancipation, or “age out” of the system. They enter
American Bar Association Webinar
March 12, 2013

From 17-21: What Lawyers, Judges, and Agencies Should Be Doing for Kids Aging out of Foster Care

Resources

Federal Guidance


Program Instruction ACYF-CB-PI-10-1 (July 9, 2010)
Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008

Program Instruction ACYF-CB-PI-10-10 (June 7, 2010)
NEW LEGISLATION – Public Law (P.L.) 111-148, the Patient Protection and Affordable Care Act.

General Information

Fostering Connections Website – Resources on Implementation of Federal Law

National Conference of State Legislatures – Youth in Transition

National Governors’ Association - Youth in Transition

National Resource Center for Youth Development

Youth Transition Funders Group Foster Care Work Group

State Examples

California

AB 12 Materials

AB 12 Primer Updated October 2012

Administrative Office of the Courts – AB 12 court Rules, links to state agency policy, charts and checklists

California Department of Social Services – AB 12 Information
California Fostering Connections Website – Information on implementation of AB 12 California state law

California Social Work Education Center (CALSWECE) Training Materials

Children’s Law Center of California - AB 12 materials for attorneys and foster youth.

Other Materials

Disability Rights Education and Defense Fund – Clearinghouse on Foster Youth and Transition

California Partners for Permanency

SSI Transitions Project

Florida

Frequently Asked Questions For Foster Youth Transitioning to Adulthood

Maryland

Transitioning Youth - Maryland Transitioning Youth Website for families and youth with disabilities

Michigan

Foster Youth in Transition – Michigan Human Services

Articles and Papers


Alice Bussiere, Permanence for Older Foster Youth, 44 Family Court Review 231-243 (April 2006.)

Alice Bussiere, Jennifer Pokempner, Jennifer Troia, Adolescents, the Foster Care System, and the Transition to Adulthood: What Legal Aid Lawyers Need to Know, 39 Clearinghouse Review, 159-170 (July-August, 2005).


Youth Law Center March 2013
Additional Resources

Aged Out and Alone at 18
By Claudia Rowe
February 15, 2013

One of the projects of the ABA Center on Children and the Law is called the “Bar-Youth Empowerment Project”. It addresses youth who are aging out of the foster care system, and the empowerment of youth to be actively involved in their court hearings. At this link can be found a range of relevant materials, including a .pdf of the Center book, “Achieving Permanency for Adolescents in Foster Care: A Guide for Legal Professionals”.
http://www.americanbar.org/groups/child_law/what_we_do/projects/empowerment.html

Judicial Benchcard for engaging youth 16 and over in the courtroom:
http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/empowerment/hasten_older.authcheckdam.pdf

The ABA Commission on Youth at Risk, a few years ago, convened a national summit conference on youth transitioning out of foster care. A .pdf of the report from that conference, “Charting a Better Future for Transitioning Foster Youth”, with recommendations for law, policy, and practice reform, can be found at this link.
http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/you th_at_risk/transitioning_foster_youth_report.authcheckdam.pdf

On July 12-13, in Washington, DC, the ABA Center on Children and the Law will be holding the 15th ABA National Conference on Children and the Law, which will feature both workshops and plenary sessions addressing older foster youth issues. Information on the conference is at:
http://www.americanbar.org/groups/child_law/conference2013.html

Protecting and Defending a Young Person in Foster Care From Financial Identity Theft
February 2010 - Child Law Practice
http://www.ohiocaesa.org/files/mnu_page_44.pdf

Lighting the Way: Preparing Foster Youth for Self-Sufficiency
May 2007 - Child Law Practice
http://www.americanbar.org/content/dam/aba/administrative/child_law/clp/artcollections/olderyt h/lighthouse.authcheckdam.pdf
AB 12: Extended Benefits for Youth Over 18:
Resources

Administrative Office of the Courts – AB 12 Materials

Court Rules, Procedures, Forms, Flow Charts, All County Letters and All County Information Notices, Court Report Requirements
http://www.courts.ca.gov/7988.htm

California Department of Social Services

ACLs and ACINs

All County Letter 12-48 (September 20, 2012)
Extended Benefits For Non-Minors Living with Current Or Former Non-Related Legal Guardians (NRLG)

All County Letter 12-44 (September 11, 2012)
Transitional Housing Placement-Plus Foster Care and Changes to Transitional Housing Placement Program and Transitional Housing Program-Plus

All County Letter 12-13 (March 27, 2012)
Relative and Nonrelative Extended Family Member Assessment/Approval; Revised and New SOC Forms For Nonminor Dependent Placement

All County Letter 12-12 (March 23, 2012)
Re-Entry into Extended Foster Care (EFC)

All County Letter No. 11-86 (March 1, 2012)
Extension of Kinship Guardianship Assistance Payment (Kin-GAP) Program Benefits and Adoption Assistance Payments (AAP) to Age 21

All County Letter 12-05 (January 13, 2012)
Implementation Of Extended Foster Care Special Project Codes In The Child Welfare Services/Case Management System (CWS/CMS)

All County Letter 11-85 (December 15, 2011)
Extension Of Foster Care Beyond Age 18: Part Three (Probation)

All County Information Notice I-78-11 (December 9, 2011)
Training Activities For The Extension Of Foster Care Program

All County Letter No. 11-78 (November 30, 2011)
California Work Opportunity and Responsibility to Kids: Extending Benefits to Non-Minor Dependents

All County Letter No. 11-77 (November 18, 2011)
Extension of Foster Care Beyond Age 18: Part Two (Placement)

1 Because of clean-up legislation and clarification of state and federal policy, the law governing extended benefits has been changing. Be sure to note the date on any resource and check to see whether the information is current.
AB 12 Resources

All County Letter No. 11-61 (November 4, 2011)
Extended Foster Care (EFC)

All County Letter No. 11-69 (October 13, 2011)
Extension of Foster Care Beyond Age 18: Part One

All County Letter No. 11-53 (July 25, 2011)
Letter of Intent and County Plan to request participation in THPP, THP-Plus, and/or THP-Plus Foster Care

Click here to download the LOI template. Click here to download the County Plan Template.

All County Information Notice No. I-40-11 (July 1, 2011)
Program Information Regarding AB 12 And The Extension Of Foster Care To Age 20

All County Letter No. 11-15 (January 31, 2011)
New Kinship Guardianship Assistance Payment (Kin-GAP) Program Requirements

Frequently Asked Questions Regarding Extended Foster Care Benefits
http://www.childsworld.ca.gov/PG2916.htm

California Social Work Education Center (CALSWEC)

AB 12 Training Material:
http://calswec.berkeley.edu/CalSWEC/OtherTraining_AB12.html
Training on Extended Foster Care (AB 12) for Juvenile Justice Involved Youth
http://calswec.berkeley.edu/extending-foster-care-juvenile-justice-involved-youth

Chief Probation Officers of California - AB12 - Extension of Foster Care to Age 20 "Fostering Connections to Success"

State Law, AB 12 Policies, Training materials
http://www.cpoc.org/php/AB12/ab12home.php

Children's Law Center of California

AB 12 materials for attorneys and foster youth.
http://www.clcla.org/train_fostering.htm#young

General AB 12 Resources

California Fostering Connections to Success – General AB 12 Information and Links
http://cafosteringconnections.org/

AB 12 Primer Updated October 2012
http://cafosteringconnections.org/pdfs/AB12%20Primer.pdf
Fostering Connections (PA) Resources and Transition Planning Tools

- **Pennsylvania Fostering Connections to Success Website**
  http://www.jlc.org/fosteringconnections/
  Fostering Connections Older Youth Extensions and Re-entry were enacted into law in Pennsylvania in July 2012. This website includes materials in the following categories: 1) Law and Legal Resources; 2) Implementation Tools; 3) Media Coverage; 4) Research; 5) Resources for Youth

- Pennsylvania Partnerships for Children & Juvenile Law Center, **Maximizing Fostering Connections to Benefit Pennsylvania Youth** (Winter 2012).
  This publication was part of the advocacy campaign to get the Fostering Connection’s Older Youth Extensions enacted into law in Pennsylvania. It highlights the cost savings that would result from implementation in state that already extends care past age 18 for many youth with state and local funds. It also highlights the policy and practice reasons for extending care. This publication is located at http://www.jlc.org/sites/default/files/publication_pdfs/Maximizing%20Fostering%20Connections%20to%20Benefit%20PA%20Youth.pdf

- **Youth Fostering Change, Teen Success Agreement**
  This tool was developed by current and former foster of Youth Fostering Change to help negotiate age-appropriate rules and living arrangements in foster homes and group care. The tool can be found at: http://www.jlc.org/sites/default/files/topic_related_docs/Teen%20Success%20Agreement%20Packet%208%2029%2012.pdf
  For more information about Youth Fostering Change see: http://www.jlc.org/youthfosteringchange

- **Youth Fostering Change, Youth Developed Discharge Hearing Form**
  This tool was developed by current and former foster youth of Youth Fostering Change to better prepare youth for their transition/discharge hearings and to facilitate increased youth involvement in transition planning. The tool can be found at: http://www.jlc.org/sites/default/files/topic_related_docs/Youth-Developed%20Discharge%20Hearing%20Form.pdf

  This guide, which is targeted at youth, is available with a training curriculum. A template for a transition plan and other resources are also included in this Guide. We are in the process of revising the Guide to reflect recent legal changes in PA and an updated version will be available soon. The guide can currently be found at: http://www.jlc.org/resources/publications/know-your-rights-guide-youth-substitute-care

- American Bar Association Center on Children and the Law, et al, **Sample State Legislation to Extend Foster Care, Adoption and Guardianship Protections, Services and Payments to Young Adults Age 18 or Older** (2010), located at: http://www.jlc.org/resources/publications/sample-state-legislation-extend-foster-care-adoption-and-guardianship-protect