The California Fostering Connections to Success Act
Updates to Extended Foster care: Answers to Q & As

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Eligibility

Eligibility Hypo # 1: Emily

- **Emily is in foster care in Los Angeles County and is turning 18 in December 2013. She is expected to graduate from high school in June 2014.**
- **Emily is working really hard in school and is hoping to go to college in Arizona after graduating from high school. She wants to go to Arizona because that is where her Aunt Linda lives and she's always wanted to move to that state.**
- **Emily wants to know what she has to do to continue to receive foster care benefits after she turns 18 and also wants to know what happens to her eligibility for benefits if she moves to Arizona after graduation in 2014.**

    - *Is Emily eligible for extended foster care benefits after she turns 18?*
        - YES! Emily had an order for foster care placement on her 18th birthday, and so she is eligible for extended foster care benefits after the age of 18.

    - *What happens to Emily's benefits if she moves to Arizona to go to college?*
        - Simple Answer: Non-minor dependents that are in a licensed or approved placement in another state remain eligible for extended foster care benefits. NMDs may be placed out of state in a SILP, group home, licensed or certified foster home, or the approved home of a relative or non-related extended family member. Which of these placements is most appropriate may depend on whether the host state is willing to use the Interstate Compact for the Placement of Children (ICPC) for the placement of the NMD.

        - More nuanced answer: If the host state is not willing to use the ICPC, some placements may not be available. Placement decisions should always take account of the needs, desires and readiness of the NMD – but, practical constraints inherent in working with other states may make some placement options unavailable to youth. This requires both the NMD and the county to be more creative and flexible in finding a placement option that will work for Emily to meet her goals of attending college out of state.

            - In general, it may be easier to approve a SILP placement out of state because the county placing agency can approve a SILP even when the host state does not permit or require the placement to go through the ICPC process. If a receiving state or local child welfare office is unwilling to accept a NMD for placement with a relative under ICPC, then the NMD cannot be **placed** in that home and alternatives – such as placing a youth in a SILP in that relative's home – should be explored.

    - *What if Emily is not eligible for federal foster care benefits? What benefits will she receive if she moves to Arizona and is placed with her Aunt Linda?*
        - If Emily is not eligible for federal foster care benefits and is **placed with** her Aunt Linda, she will receive CalWORKs benefits to support that placement.

        - However, if Emily is not federally eligible, she could exit foster care after turning 18 and immediately re-enter. Upon re-entry, Emily's federal eligibility will be re-

determined and will only take into account Emily's income and resources, as opposed to the income and resources of the home from which she was removed.

- Alternatively, Emily can be approved to live in a SILP in her Aunt Linda's home, essentially renting a room from her Aunt Linda, and then Emily would receive foster care benefits regardless of her federal eligibility.

- *What other placement options does Emily have if she moves to Arizona and what benefits will she receive in those placements?*
  - Emily can be placed in her Aunt Linda's home, as long as Arizona is willing to accept Emily for placement under the ICPC. Alternatively, Emily can be in a SILP in Arizona and either rent a room from her Aunt Linda or live in the college housing or the college dorms. If Emily is in a SILP placement and Arizona is unwilling to utilize the ICPC, then the county will be responsible for approving the SILP and completing the requisite state forms.

- *What does Los Angeles County have to do once Emily moves to Arizona?*
  - LA County must approve Emily's placement, either by utilizing the ICPC (if the other state is willing) or by doing the placement approval outside of the ICPC (if Emily is being placed into a SILP). In addition, once the placement is approved, LA County is responsible for monthly face-to-face supervision and ensuring the provision of services consistent with Emily's case plan.

- *What will happen to Emily's eligibility for Medi-Cal if she moves to Arizona?*
  - If Emily is eligible for federal foster care benefits, Emily will be eligible for Medicaid in Arizona until she turns 21 under the Medicaid for Former Foster Youth Program. If Emily is not eligible for federal foster care benefits, whether Emily can continue to receive Medicaid benefits in Arizona will depend on whether Arizona is willing to issue Emily a Medicaid card and work with California to secure reimbursement for any health care services that Emily receives.

  - Because Emily had an order for foster care placement on her 18th birthday, she is also eligible for Medicaid benefits until 26 under the Affordable Care Act in California. However, it is not clear if other states will choose to extend coverage to former foster youth from other states, and the federal government has not yet finalized regulations that will determine whether other states are required to provide this coverage. Therefore, if a youth whose dependency was established in CA moves to another state, he/she must check with that state to see if they can obtain coverage from that state until age 26.

Eligibility Hypo # 2: Jasmine

- **Jasmine is in foster care and placed in a group home. She is turning 18 in February 2014.**
- **Jasmine is a Regional Center client and is not expected to graduate from high school. She is working on her certificate of completion, and has an IEP that provides her with educational supports until she turns 22.**
- **The County wants to dismiss Jasmine's case after she turns 18, claiming Jasmine cannot remain in the group home because she will not graduate by the time she turns 19 and Jasmine is not able to sign a mutual agreement to remain in Extended Foster Care.**
  - *Is Jasmine eligible for extended foster care after she turns 18?*

- YES! Jasmine had an order for foster care placement on her 18th birthday, and so is eligible for extended foster care after she turns 18.

- *Is Jasmine eligible to remain in a group home beyond the age of 18? If not, what other placement options are available to Jasmine? What is the county's role/responsibility in finding an appropriate placement?*
  - Jasmine can remain in a group home beyond age 18 in order to complete high school. In general, a group home placement is prohibited once Jasmine turns 19 or completes high school, whichever occurs first. Jasmine's case plan should include a transition plan for stepping down from a group home to another appropriate placement months in advance of her turning 19 or graduation, whichever is expected to occur first. However, given that Jasmine is a Regional Center client, it is likely that she is participating in extended foster care under participation condition #5 (medical condition that renders a NMD incapable of doing any of the other participation conditions). In that case, Jasmine can remain in the group home beyond turning 19 or graduating from high school, if that continued group home placement is part of a short-term transition to a less restrictive and more family-like setting or discharge to the appropriate system of care for adults.

  - AB 12 is an opt-out program and foster youth who are regional center clients have the same rights to participate in extended foster care as all other foster youth. If Jasmine wants to remain in foster care, that is her choice. As long as Jasmine is in extended foster care, the county is responsible for her placement and supervision. That means that if the group home is no longer appropriate, the county needs to find another appropriate placement in coordination with Jasmine and the regional center. Many regional center clients can lead independent lives, and so it may make sense to work to find an appropriate extended foster care placement where Jasmine can continue to receive regional center services, work on her transitional independent living skills, and continue to be connected to her social worker, attorney, and the judge overseeing her case. There may also be instances when it is more appropriate to transition Jasmine to another appropriate system of care for adults. The decision will be made on a case-by-case basis and, ultimately, it is Jasmine who gets to decide if she wants to opt-out of extended foster care or remain in the program, given the available placement options and her other transitional goals.

- *Is Jasmine required to sign a mutual agreement in order to remain in foster care after age 18?*
  - It depends. NMDs who are "incapable of making informed agreement" are not required to sign a mutual agreement in order to remain in foster care after age 18. Ultimately, the juvenile court will make the determination if Jasmine is incapable of informed agreement.

Eligibility Hypo #3: Marc

- **Marc exited foster care when he was 17 when his Uncle Max, whom he had been placed with, took guardianship.**
- **Marc turned 18 in January 2013. In June, he moved out of his Uncle Max's house in order to try living in an apartment with some of his friends while working part-time.**
- **Last month, Uncle Max died.**

- *Was Marc eligible for extended foster care when he turned 18?*
  - NO. Marc did not have an order for foster care on his 18th birthday and so was not eligible for extended foster care benefits.

- *Is Marc eligible for any benefits once he turns 18? What does he have to do to continue to receive benefits?*
  - Marc is eligible to receive extended Kin-GAP benefits until age 21 because he entered the guardianship when he was over the age of 16. If Uncle Max had been a non-related family member, as opposed to a relative, then Marc would be eligible to receive extended AFDC-FC benefits until age 21, regardless of Marc's age when the guardianship was established. However, the extended AFDC-FC program for youth with a NRLG is not the same as extended foster care – different rules apply.

  - In order to continue to receive benefits after the age of 18, Marc must sign a mutual agreement before he turns 18 or in the month he turns 18. If the mutual agreement is not signed by the time he turns 18, benefits would be suspended until the mutual agreement is signed. In addition, Marc must meet one of the five participation conditions and Uncle Max must agree to continue to support Marc and report any changes in eligibility conditions.

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- *Was Marc still eligible for benefits once he moved out of his Uncle Max's house?*
  - Marc is still eligible for extended Kin-GAP benefits (or extended AFDC-FC benefits if Uncle Max is a NREFM) even once he moves out of his Uncle Max's house, as long as Uncle Max continues to provide support to Marc.

- *What happens now that Uncle Max has died? What are Marc's options?*
  - Due to changes in the law that will take effect January 1, 2014, if Uncle Max dies, Marc has the option to re-enter foster care and participate in extended foster care until he turns 21. Those youth who enter guardianship or adoption prior to turning 18 who would have been eligible for extended benefits (under the Kin-GAP program, AFDC-FC program, or AAP program) until age 21 are now permitted to re-enter foster care and receive benefits/assistance through the extended foster care program in the event that their guardian or adoptive parent dies.
  - NOTE: Although the changes in law are limited to instances when the youth's guardian or adoptive parent dies, a recent court of appeal decision (A.F. v. Alameda County Social Service Agency) suggests that the court retains jurisdiction over youth who exit to guardianship for the purpose of being able to appoint a successor guardian, if needed. This could extend to youth who lose extended benefits due to the relationship with the former guardian or adoptive parent disrupting.

Eligibility Hypo # 4: Tenaya

- **Tenaya was arrested for shoplifting in February 2013 when she was 17 and was placed into a group home because the court determined she did not have a safe place to call home. She turned 18 in June 2013. In October, Tenaya finished the terms of her probation and left the group home.**
- **Three months later, Tenaya is homeless and really struggling. She contacts the county and is given conflicting information. The first person she talks to says there is nothing that they can do. The second person tells her to find a SILP to live in and that once she does that, the county will come out and inspect that placement.**

- *Is Tenaya eligible for extended foster care?*
    - YES! It does not matter that Tenaya was not in the dependency system prior to her arrest and placement into a group home. The group home placement is a suitable placement order, and thus if that placement order is in effect on her 18th birthday, then Tenaya is eligible for extended foster care benefits.

- *Is Tenaya eligible to re-enter extended foster care? If yes, what does Tenaya have to do in order to re-enter?*
    - Yes, Tenaya is eligible for re-entry because she had an order for foster care placement on her 18th birthday. In order to re-enter, Tenaya needs to sign the Voluntary Re-Entry Agreement. Alternatively, Tenaya could file the 388(e) petition directly with the juvenile court, but it is much faster to re-enter via the VRA because it does not require that Tenaya wait for the court to act on the petition.

- *What are the county's obligations with regard to Tenaya upon her re-entry into foster care?*
    - Once both Tenaya and the county of general jurisdiction at the time that Tenaya exited foster care sign the VRA, then Tenaya is back within the care and supervision responsibility of the county and should be immediately placed. Benefits begin as of the date that Tenaya is in a placement. It is not up to Tenaya to identify her own housing upon re-entry (indeed, if she had identified housing, she likely would not need to re-enter). Rather, it is the county's obligation to identify an appropriate placement and initiate supports and benefits for Tenaya. Further, once the Voluntary Re-entry Agreement (VRA) is signed, the placing agency i.e. county child welfare agency, probation is **required** to file a 388 (e) petition (Form JV-466) requesting the court to resume jurisdiction within ***15 court days*** of the signing of the VRA.

Family Reunification

Family Reunification Hypo#1:

- **Marisa entered foster care when she was 17 years and 8 months old. She has two siblings, ages 8 and 12. At the disposition hearing, the court ordered family reunification services for Marisa, the siblings and the mother.**

    - *Will Marisa be considered a NMD by the next review hearing?*
        - Yes. Marisa will automatically assume NMD status when she attains18 years of age and is under an order for foster care placement. The court does not need to declare a youth a nonminor dependent in order for the youth to be eligible for extended foster care benefits. Extended Foster Care is an "opt out" program. There is an assumption that the youth who attains 18 years of age will remain in care unless s/he opts out of care, or the court finds that the nonminor dependent is not satisfying the participation conditions and jurisdiction is terminated. The court is responsible for finding that the youth continues to meet one of the participation conditions in order to remain eligible, and that the agency provides reasonable efforts to assist the youth in meeting participation conditions and ensuring ongoing eligibility. *WIC 366.31(a)(b)(c) 391(e),, 11400(v) &11403(a) ,(e)*

- *What hearings must the court set next?*
    - Since the court ordered family reunification, the court must set a 366.21(e) hearing for the younger siblings. However, since Marisa will have reached the age of majority and be a nonminor dependent by the next six month review hearing, the court must set a Status Review Hearing for a NMD in FR for Marisa pursuant to *WIC 366.31(d). WIC 11400(v) ,11403(b), 366.31(d).*

Family Reunification Hypo#2

- **At the next review hearing, there has been significant progress in the case. Marisa and her mother are in agreement that Marisa should move home.**

    - *What order should the court make?*
        - The court can make an order that Marisa may safely reside in the home of the mother pursuant to WIC 366.31(d)(3). This is not a home of parent order – it is a new order specifically for non-minors in reunification.

    - *If Marisa moves home, does the court have to terminate jurisdiction?*
        - No. The court can continue jurisdiction under WIC 303(a) if it determines court supervision is necessary. Review hearings would be held under 366.31(d). During this period of supervision, the court would be supervising Marisa as a dependent of the court who is an adult (nonminor). This status is distinguished from Marisa meeting the definition of a nonminor dependent as defined pursuant to WIC 11400 (v) and 11403(b). Alternatively, the court could determine that court supervision was no longer necessary, or Marisa could request the court to terminate jurisdiction. When terminating jurisdiction, the court must terminate pursuant to WIC 391. *WIC 366.31(d)(3), WIC 303, WIC 391*

Family Reunification Hypo #3

- **After continuing jurisdiction for 6 months, the court terminates jurisdiction pursuant to *WIC 391*. Two months later, due to increased conflict between Marisa and her mother, Marisa is kicked out of the home. She would like to re-open her case and is interested in getting assistance with her education.**

    - *Does the fact that her case closed while she was residing with her mother impact her eligibility for re-entry?*
        - No. As long as Marisa had an order for foster care placement on her 18th birthday she is eligible to re-open her case under WIC 388(e) regardless of the outcome of family reunification. *WIC 366.31(d)(3), 388(e)*

Family Reunification Hypo #4

- **Slightly different facts: At the first review hearing for a NMD in FR, things had progressed in the case plan but Marisa still did not feel comfortable living with her mother.**

    - *Can the court continue reunification services?*
        - Yes! The court can continue reunification services if the court finds:
            - It is in the best interest of the NMD, **and**
            - The NMD and parent/legal guardian are in agreement, **and**

- There is a substantial probability that the NMD will be able to safely reside in the home of the parent by next review hearing.

- **Assume the Court continues reunification and sets a review hearing in 6 months. Two months later, the conflict between the mother and Marisa worsened and Marisa realizes that the relationship is beyond repair.**
  - *Does Marisa have to continue to participate in reunification with her mother until the next review hearing?*
    - No. Marisa can request to terminate reunification by filing a 388(c) petition (see *WIC 361.6(b)*). By filing the request, Marisa is indicating that she is no longer in agreement with continued family reunification and the court must terminate reunification services. After the court terminates, the next six month review hearing for Marisa will be a NMD review hearings under *WIC 366.31(b)*, instead of a reviewing hearing for a NMD in FR under *WIC 366.31(d).*

Adult Adoption

Adult Adoption Hypo: Leslie was placed in foster care when she was 12 years old . Leslie's parents had their parental rights terminated when Leslie was 17. The plan was to have her foster parents, the W's, adopt her. However, the adoption was not finalized before Leslie turned 18. Leslie is currently 18 years 3 months and living in her own apartment.

- *Can Leslie still be adopted?*
  - Yes. Under Section 366.31(f), The W's and Leslie can enter into an adoption agreement
- *What is the role of social services and the court under Section 366.31(f)?*
  - Once Adoption is ordered as the permanent plan, the court must set a review hearing within 60 days for the social service agency to write a report and attach the adoption agreement to the report. Please see forms JV 475, 477 and 479
- *Does it matter that Leslie is not living with the W's?*
  - No
- *Would the outcome change if Leslie's parents did not have their parental rights terminated?*
  - No. Even if parental rights are not terminated prior to 18, a NMD may still be adopted under 366.31(f)

Delinquency

Delinquency Hypo #1

- **Michael is currently17 years and 8 months and placed in Shady Pines Group home. At the review hearing before Michael turns 18, the court finds Michael is a ward of the court, he graduated from high school, met his goals and completed his placement program. Michael could return home, but he does not want to because it is not a great option. Michael's parents had their services terminated at the last review.**
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  - *Is Michael eligible for extended foster care?*
    - Maybe. It depends on whether he meets the definition of a nonminor dependent as defined in WIC 11400(v) and 11403(b) when he turns 18 years old. If Michael returns home at 17 years 8 months he is not eligible for extended foster as he will not be subject to an order for foster care placement. However, if Michael turns 18

and is still under an order for foster care placement, he is eligible for extended foster care.

- *Under what Jurisdiction type?*
  - Transition (JV 680)*
- *What are Michael's placement options?*
  - Family, NREFM, Foster Home
  - When 18 add: SILP, THPP-FC
- *When is Michael's next review hearing?*
  - His next hearing is six months from the last title IV-E findings (Not six months from the 90 day hearing).
- *What must the court consider at the next review hearing?*
  - Requirements for findings and orders the must make are under WIC 366.31 and include the plan and back up plan to maintain eligibility (JV 462). * If services not terminated, then stay delinquent

Delinquency Hypo # 2

- **Lisa, a ward of the court, has been under a foster care placement order since 17. Right before her 18th birthday, Lisa left her placement at Honey Dew group home and was picked up on a warrant. She turned 18 in juvenile hall. Lisa is currently 18 years 3 months. At her hearing last week, the court followed the probation department recommendation to vacate placement orders, have Lisa serve 30 days of time and dismiss her case.**

- *Is Lisa a NMD?*
  - She was a NMD until placement orders were vacated. Youth automatically transition to NMD status at age 18 if they are under an order for foster care placement order and have a case plan.
- *Under what jurisdiction was Lisa a NMD?*
  - Delinquency
- *Can Lisa reenter even though she did not complete her rehabilitative goals?*
  - Yes, she can reenter under the transition jurisdiction of the court. She would need to sign the VRA and file the JV 466/388(e).
- *If the court had vacated Lisa's placement orders while she was on runaway status, would Lisa be eligible for extended foster care?*
  - No, because the placement orders would have been vacated prior to Lisa's 18th birthday.

Delinquency Hypo # 3

- **Veronica, was also placed at Honey Dew group home. Veronica became a ward and was ordered into placement when she was 17 years 9 months. Veronica left the group home as soon as she was placed and was also picked up on a warrant one month later. At the disposition hearing, Veronica, who was 17 years and 11 months, was ordered back into placement. Veronica has not graduated high school. She and her parents decide to stay in reunification services. Veronica spent her 18th birthday in juvenile hall pending placement.**

- *Is Veronica a NMD?*
  - Yes
- *Under what jurisdiction?*
  - Delinquency
- *What is the next review hearing?*

- NMD hearing under 366.31
- *Is Veronica currently title IV-E eligible?*
  - No
- *Can Veronica become title IV-E eligible?*
  - Maybe. If the court determines that Veronica's case can be dismissed, then Veronica can re-enter and re-establish eligibility. Since reentry eligibility is based on a "child-only" income, it is likely Veronica will qualify.

Delinquency Hypo # 4

- **Edgar is a ward of the court in Wayward Group home. He is 18 years 6 months. He received his GED, but has not completed his treatment in the program. His next court hearing is coming up next week.**

  - *Is Edgar a NMD?*
    - Yes
  - *What Jurisdiction is Edgar under?*
    - Delinquency
  - *What are the possible placement options for Edgar?*
    - All, including THP+ FC and SILP
  - *What are the report requirements at the next court hearing? (366.31)*
    - Depends on whether Edgar is in FR:

NMD In FR	NMD not in FR
• Placement necessary/appropriate	• Placement necessary/appropriate
• Likely date by which the NMD may safely reside in the home or achieve independence	• Likely date the NMD will achieve adoption or independence
• Whether NMD and parents involved in case plan development	• Continuing appropriateness and extent of compliance with permanent plan for NMD
• Whether reasonable services have been provided designed to aid parent to overcome problems that led to removal	• Whether PAP has been identified and assessment needs to be done under (f)
• Extent of progress made by parents in alleviating need for placement	• Whether TCA applies if NMD is Indian Child
• Whether NMD/parents are in agreement with continued FR	• Efforts to maintain NMD's connections with caring and permanently committed adults
• Whether FR is in NMD's best interest	• Progress in getting 391 documents
• Whether there is substantial probability that NMD will be able to safely reside in home of parent by next review date	
• Efforts to maintain NMD's connections with caring and permanently committed adults	
• Agencies compliance with TILCP	
• Progress in getting 391 documents	