



EVERY CHILD, EVERY HEARING

How to Ensure the Daily Well-Being of Children
in Foster Care by Enforcing Their Rights



Judicial Council of California

Every Child, Every Hearing

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Make sure that we, too, have a voice. I can't speak for everyone, but I feel better advocating for myself. Who knows the situation better than me anyway?

—Anonymous youth surveyed by Voice for Adoption

Transitioning a child into adulthood requires constant attention to all aspects of the child, including the child's physical and mental health, social and cognitive development, and education. It is the responsibility of all court participants to help children who come before the juvenile court with their development and ultimately with their transition into adulthood. Whether you are a parent or guardian, another relative, a foster parent, a nonrelative extended family member, an Indian custodian, a tribal member, a social worker, a probation officer, a court-appointed special advocate, a mentor, an important individual in the child's life, an attorney, a teacher, an educational representative, an employer, a doctor, a nurse, a therapist, or a judicial officer, our shared responsibilities are great.

This booklet will assist the court and other interested persons who have this responsibility. It offers key questions and relevant authorities (with accompanying citations) intended to prompt consideration of important issues for every child. For children served by the juvenile court, consistent inquiry into these topics is necessary to help transition them back to their home of origin or to another permanent plan when reunification is not possible.

Judicial Council of California

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How to Use the Citations

The information and questions contained in this checklist are based on federal and state laws, rules, regulations, forms, and manuals, and on general information relating to children. The following information will help you find the referenced citations.

Federal and state laws are contained in code books:

- USC = United States Code
- Ed Code = California Education Code
- Civ Proc = California Code of Civil Procedure
- Fam Code = California Family Code
- Gov Code = California Government Code
- Hlth & S Code = California Health and Safety Code
- WIC = California Welfare and Institutions Code

Laws are often further explained in regulations and rules of court:

- CFR = Code of Federal Regulations
- FR = Federal Register
- CCR = California Code of Regulations
- Cal Rules of Court = California Rules of Court

Other references:

- ACL = All County Letters
(www.cdss.ca.gov/inforesources/letters-regulations/letters-and-notice/all-county-letters)
- MPP = California *Manual of Policies and Procedures*, Child Welfare Services
- “*Ibid.*” means the statement is based on the previous citation.
- The use of “children and youth” or each term independently refers to a child as defined by title 42 United States Code section 675(8) and includes nonminor dependents as defined by state law. (WIC, § 11400(v).)

Forms often are used to help comply with laws. State court forms can be found at courts.ca.gov/rules-forms/find-your-court-forms. Local courts also may have forms unique to the county. Local forms can be found on the county’s superior court website.

Main Topics at a Glance

Review the topics on this page to determine whether looking at a section in detail is warranted.

1. Indian Child Welfare Act

- Have the court, social worker, and probation officer asked the child, parents, legal guardian, Indian custodian, extended family members, others who have an interest in the child, and the party reporting abuse or neglect about whether the child is Indian or may have Indian ancestry?

2. Initial Hearing Considerations

- Due to the numerous considerations at initial hearings, please review this section for each initial hearing.

3. Child and Family Team Meetings

- Was a child and family team (CFT) meeting convened to address current needs?
- Were the necessary people invited to the CFT meeting, and were other people important to the family or youth invited?

4. Visitation

- Is the youth able to visit with parents, siblings, relatives, and other people important to the youth with appropriate frequency and supervision as supported by the evidence?

5. Connections and Activities

- Have “family finding and engagement” efforts been made to identify, locate, and contact the youth’s family and family-like connections, and if so, who was found and what actions have been taken to engage extended family and other connections?
- Is the youth able to participate in extracurricular, cultural, racial, ethnic, personal enrichment, and social activities?
- If the child is an Indian child, have connections and activities included the child’s tribal community and culture?

6. Placement

- Is the youth currently placed in the least restrictive, least disruptive, and most family-like setting suited to meet their needs?
- If necessary, are concurrent plans in place?
- If placement is changing, will the youth’s services be changing?
- If the child is an Indian child, is the placement consistent with the ICWA placement preferences?

7. Education and Developmental Rights

- Will this hearing affect where the youth attends school?
- Are the youth’s educational needs, including extracurricular ones, being met?

8. Mental Health

- Is the information to determine whether the youth has mental health needs available, or is there any indication that an assessment or other support is warranted?
 - If yes to either, is the youth receiving the appropriate services in a timely manner?
- Should the presumptive transfer of Medi-Cal be rebutted?

9. Physical Health

- Is the information to determine whether the youth has physical health needs available, or is there any indication that an assessment or other support is warranted?
 - If yes to either, is the youth receiving the appropriate services in a timely manner?

10. Sexual Orientation and Gender Identity and Expression

- Does the youth have any sexual orientation and gender identity and expression (SOGIE) factors that need to be addressed?

11. Permanency, Age-Related, and Nonminor Dependent Considerations

- Are the additional requirements at ages 14, 16, and 18 and for nonminor dependents being addressed?
- If the youth has a transitional independent living plan (TILP), do the TILP goals realistically prepare the youth to be independent once dependency supports are removed?

12. Immigration

- Did the youth have legal residency when adjudicated a dependent?

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1 Procedural and Substantive Due Process Rights Under the Indian Child Welfare Act

- Have the court, social worker, and probation officer asked the child, parents, legal guardian, Indian custodian, and extended family members; others who have an interest in the child; and the party reporting abuse or neglect about whether the child is Indian or may have Indian ancestry? Did that inquiry give reason to believe the child may be an Indian child? Was further inquiry conducted? Did any of this inquiry give the agency or the court “reason to know” the child is an Indian child? (WIC, § 224.2(b); Cal Rules of Court, rules 5.481, 5.482.)
- If yes, have the court and the social worker or probation officer complied with applicable Indian Child Welfare Act (ICWA) requirements such as notice, active efforts, and placement requirements? (25 USC § 1901 et seq.; WIC, §§ 224–224.6; Cal Rules of Court, rules 5.481, 5.482, 5.485.)

The inquiry should occur by the agency at first contact with the family and throughout the life of the case and by the court any time there is a first court appearance by a parent, Indian custodian, guardian, relative, or other participant in a dependency proceeding. (WIC, § 224.2(c); Cal Rules of Court, rule 5.481.)

Note: When an ICWA inquiry is inadequate, it is impossible to ascertain whether a child welfare agency’s error is prejudicial. An inadequate ICWA inquiry therefore requires conditional reversal if a juvenile court has ordered parental rights terminated, with directions to the agency to conduct an adequate inquiry, supported by record documentation. (*In re Dezi C.* (2024) 16 Cal.5th 1112.)

Relevant Portions of the Foster Youth Bill of Rights (WIC, § 16001.9)

All children (including nonminor dependents except where conflicting) have the following rights specified in Welfare and Institutions Code section 16001.9:

(20) To have child welfare and probation personnel and legal counsel who have received instruction on the federal Indian Child Welfare Act of 1978 (25 U.S.C. Sec. 1901 et seq.) and on cultural competency and sensitivity relating to, and best practices for, providing adequate care to Indian children in out-of-home care.

(21) To have recognition of the child’s political affiliation with an Indian tribe or Alaskan village, including a determination of the child’s membership or citizenship in an Indian tribe or Alaskan village; to receive assistance in becoming a member of an Indian tribe or Alaskan village in which the child is eligible for membership or citizenship; to receive all benefits and privileges that flow from membership or citizenship in an Indian tribe or Alaskan village; and to be free from discrimination based on the child’s political affiliation with an Indian tribe or Alaskan village.

(34) (A) ... If the child is an Indian child, to have a representative designated by the child’s Indian tribe be in attendance during hearings.

(37) ... If the child is an Indian child, the case plan shall include protecting the essential tribal relations and best interests of the Indian child by assisting the child in establishing, developing, and maintaining political, cultural, and social relationships with the child’s Indian tribe and Indian community.

2.1 When Recommendation Is Removal From Parents, Indian Custodian, or Legal Guardians

- Does the social worker's report include the required information regarding the short- and long-term harms that may result from the child's removal from their parent, guardian, or Indian custodian? (WIC, § 319(b).)
- Were reasonable efforts made to prevent removal? (WIC, § 319(f)(1).)
- If there is reason to know the child is an Indian child, have the additional requirements of Welfare and Institutions Code section 319(b)(1)–(10) and (d) been met?
- Are there services available to prevent removal (e.g., case management, counseling, emergency shelter care, emergency in-home caretakers, return to a parent in a certified residential substance abuse treatment facility)? (WIC, § 319(f)(4).)
- If the youth is removed, has the court made appropriate visitation orders between the youth and other persons? (Cal Rules of Court, rule 5.670.)
- Does the child have clothes, belongings, and other basic day-to-day necessities?

2.2 Relatives

- Has the court ordered the parent to disclose to the social worker the contact information for any known relatives of the child? (WIC, § 319(h)(3).)
- Has the social worker asked the child about relatives or conducted a database search?
- Is a relative willing to take placement? Was the relative assessed for placement? Is it an appropriate placement? If appropriate, has it been considered for emergency approval? (WIC, §§ 309(d), 361.3, 361.4.)
- Is there evidence that temporary placement with a relative, regardless of any criminal exemption or resource family approval, would not pose a risk to the health or safety of the child? (WIC, § 319(h)(3).)
- See Section 6.2 (Emergency Approval Process and Court-Ordered Placement With Relatives).
- Has the court considered the issue of visitation between the youth and other persons to determine whether visits would be beneficial to the youth? (Cal Rules of Court, rule 5.670.)

2.3 Paternity

- Has the court conducted a parentage inquiry? (WIC, § 316.2; Cal Rules of Court, rule 5.635.)
- If there are other family members present, do they have any additional information about who may be the child's parent or parents?
- What efforts have been made or should be ordered to locate the parents?
- Have local or state databases been searched to find out whether paternity has already been established (e.g., voluntary declaration on file, paternity judgment in family court, or child support services)?
- Should genetic testing be ordered to determine paternity?
- Who does the child identify as their parent or parents?
- Does the child have additional details about a possible parent who is not present in court (e.g., name, location, last contact, contact information)?

2.4 Education

- Are there reasons for the court to consider temporarily limiting the parent's or guardian's educational rights concerning the child and appointing a responsible adult to make educational decisions? (WIC, §§ 319(j), 361; Gov Code, § 7579.5.)
- Is the parent or guardian incapable of providing or have they failed or neglected to provide proper education for the minor?
- Has the parent or other person with educational rights determined that remaining in the school of origin is in the child's best interest? (Cal Rules of Court, rule 5.651.)
 - If yes, is the child's local educational agency allowing the child to continue attending the school of origin for the duration of the academic year? (Ed Code, § 48853.5(f)(1).)
 - If no, see Section 6.5 (Change of Placement and Education).

2.5 Physical Health

- Did the court direct each parent to provide the child's complete medical, dental, mental health, and educational information to the child welfare agency? (WIC, § 16010(f).)
- Did the parents submit a completed health and education questionnaire (form JV-225)? (WIC, § 16010(f).)
- Has an assessment of the child's mental health, physical health, and educational needs begun?
- Has an assessment of any identified substance abuse concerns begun?
- Is there a need for further assessments? If so, which areas and what further assessments are needed?
- Did the child arrive at the temporary placement with any required medication?
- Are the parents available and willing to make medical and dental decisions?

2.6 Mental Health

- Are there short- or long-term harms that may result if the child is removed? What is the child's attitude toward removal, and what is the impact of the removal on the child's existing household and social relationships? (WIC, § 319(b).)
- Is the child's placement the least disruptive alternative to return to the parent or guardian?
- Are there measures available to mitigate the harms related to removal?
- Was the child receiving emotional or mental health supportive services before removal? If there is an existing therapeutic relationship, have efforts been made to preserve the relationship?
- Does it appear that mental health services are necessary to assist the child's adjustment to foster care?
- Was the child taking psychotropic medication before the removal?
- If the child is detained or removed, does the child have their psychotropic medication?
- Is the child maintaining connections and contact with important individuals? Has the child had visits and maintained connections and contact with the parents, if desired? What are the barriers to maintaining connections and contact?

2.7 Continuances at Detention

- Is a continuance necessary to put services in place or complete other assessments to prevent removal or to gather evidence? (WIC, §§ 319(f), 322.)

3.1 CFT Meeting Overview

- A child and family team (CFT) is defined as a group of individuals who meet to identify the strengths and needs of a child and their family and to help achieve outcomes for safety, permanency, and well-being. (WIC, § 16501(a)(4).)
- Members of the CFT must include the child, parent(s), caregiver(s), placing agency social worker; a representative from the child's short-term residential therapeutic placement (STRTP), community treatment facility (CTF), or foster family agency if applicable; a representative from the regional center if applicable; the child's court-appointed special advocate (CASA) if one has been appointed, unless the child objects; and a representative of the child's tribe or Indian custodian if applicable. (WIC, § 16501(a)(4)(B)(i).)
- The CFT members may also include service professionals, family members, friends, attorneys for the parties, and other people important to the family or to the child or youth. (WIC, § 16501(a)(4)(B)(ii).)
- Has the child or youth been asked who they want to be included in the CFT meeting? (*Ibid.*)
- Has the CFT been scheduled at a time and place that is convenient for the family? (ACL 16-84.)
- A CFT meeting is a convening of some or all members of the CFT and is sometimes simply referred to as a CFT. (WIC, § 16501(a)(5).)
- For every CFT meeting held, has each participant with legal power to consent signed a written authorization to release information to CFT members? (WIC, § 832(b).) For a dependent child who does not have the legal power to consent to the release of information, the child's attorney or other authorized individual may consent on behalf of the child. (WIC, § 832(b)(1).)

3.2 Who Initiates a CFT Meeting?

- The first CFT meeting is initiated and scheduled by the placing agency. Subsequent CFT meetings can be initiated by the child, youth, or family or by another team member. (ACL 16-84.)

3.3 When Must CFT Meetings Be Held?

- A CFT meeting must be held:
 - To preserve placement;
 - To discuss a change of placement;
 - After a change of placement;
 - For placement of the child into a STRTP or CTF;
 - When the case plan is being developed; or
 - As needed by the child, nonminor dependent (NMD), or family.

(See WIC, §§ 16001.9(a)(39), 16501(a)(5)(C), 16501.1(d)(2); ACL 16-84, ACL 22-35; TEMP 3011,¹ TEMP 3012.²)

3.4 Timing of the CFT Meetings

The timing of CFT meetings below is supported by Welfare and Institutions Code sections 224.2, 352, 16501, 16501.1, and 160091.1(a)(39) and guidance from All County Letters 22-35 and 16-84.

¹ *Child and Family Team (CFT) & Child and Adolescent Needs and Strengths Tool (CANS): For Parents*, www.cdss.ca.gov/Portals/9/Additional-Resources/Forms-and-Brochures/2020/Q-T/TEMP3011.pdf?ver=2024-01-12-152405-623.

² *Child and Family Team CFT and CANS: For Youth*, www.cdss.ca.gov/Portals/9/Additional-Resources/Forms-and-Brochures/2020/Q-T/TEMP3012.pdf?ver=2022-01-04-151350-187.

- Was the initial CFT meeting held within 60 days from entry into foster care so the child and family team can give input into the case plan?
- If it is known or there is reason to know the child is an Indian child, was the initial CFT meeting held within 30 days of entry into foster care? Was the CFT scheduled to facilitate tribal participation?
- Are CFT meetings being held at a minimum of every six months?
- For youth in STRTP placement, is a CFT meeting being held at least every 90 days?
- Is the best practice of scheduling a CFT meeting before a Welfare and Institutions Code section 241.1 hearing being followed?

3.5 What Should Happen in a CFT Meeting?

- What child and parental/guardian strengths were identified during the CFT meetings?
- How were those strengths used to identify services for the child and parent/guardian that would address the initial reasons for removal?
- If the case is in reunification, were members of the CFT meeting involved in decisions regarding reasonable services to return the child safely home?
- Was the Child and Adolescent Needs and Strengths (CANS) assessment tool³ for identifying the children's and youth's strengths and needs used to inform case planning and other decisions that impact the child(ren) and youth?
- Were the child, youth, parents, family members, and tribal representative, if applicable, involved in making decisions about goals and strategies for the child/youth and family? (WIC, § 16501(a)(4)(A).)
- Was an action plan created to address specific child, youth, or family needs?

3.6 What Happens After a CFT Meeting?

- Was a copy of the CFT documents provided to the court and parties? If not, should the hearing be continued to allow enough time to review those documents?
- Did the agency consider the recommendations of the CFT and document the rationale for inconsistencies between the case plan and CFT recommendations? (WIC, § 16501.1(a)(3).)
- Did the agency consider the CFT recommendations in the development of the case plan? (WIC, § 16501.1(c), (g).)
- Are all parties monitoring the identified action plan items for completion?

Additional CFT resources are available on the "Child and Family Teams" webpage of the California Department of Social Services website.

Relevant Portions of the Foster Youth Bill of Rights (WIC, § 16001.9)

(39) To request and participate in a child and family team meeting, as follows:

(A) Within 60 days of entering foster care, and every 6 months thereafter.

(B) If placed in a short-term residential therapeutic program, or receiving intensive home-based services or intensive case coordination, or receiving therapeutic foster care services, to have a child and family team meeting at least every 90 days.

³ "The Integrated Practice Child and Adolescent Needs and Strengths (IP-CANS) Tool," www.cdss.ca.gov/inforesources/foster-care/cans/the-cans-tool/cans-resources.

(C) To request additional child and family team meetings to address concerns, including, but not limited to, placement disruption, change in service needs, addressing barriers to sibling or family visits, and addressing difficulties in coordinating services.

(D) To have both informal and formal support people participate, consistent with state law.

- Is visitation between the child and parent(s) occurring as frequently as possible, consistent with the well-being of the child? (WIC, § 362.1(a)(1)(A).)
- Is visitation between siblings occurring? (WIC, §§ 362.1(a)(2)–(3), 16002.)
- In the case of an Indian child is there contact with tribal members and members of the child's Indian community? (WIC, § 16001.9(a)(14).)
- Is the level of supervision required for visitation regularly reviewed at and in between court hearings to determine whether visitation should progress from supervised to unsupervised to overnight visits and/or return to the parent's home?
- If supervised visitation has been ordered, have all potential nonprofessional supervisors been explored?
- If visitation is not occurring between the child and the parent(s) because of the child not wanting to attend visits, what services are being offered or need to be offered to support the youth's participation in visitation?
- Has the child been asked what would help them resume visitation with their parent(s)? For example, what activities would the child like to do during visits? What would help the child feel more comfortable during visits?
- Has the court ensured that the social worker has taken affirmative steps to reinforce the court-ordered nature of visitation or taken measures to provide some assurance that visitation will actually take place even though the child is refusing?
- If a family member, nonrelated extended family member, or nonrelative resource parent is being evaluated for placement, is the potential caregiver visiting the child? If the child is nonverbal, is the potential caregiver in communication with the child's caregiver?

5.1 Relationships and Lifelong Connections

The child's right to ongoing relationships with family members and natural supports starts at the very beginning of the case and continues throughout the duration of the case. Not only are these connections helpful in having placement options and visitation supervisors, but they also are critical connections to the youth's culture, and tribe if applicable, and are a foundation for the youth's mental and emotional health.

- Unless otherwise ordered by the court, is the child always allowed to contact and visit with their family members, tribal members and members of the child's Indian community or Indian custodian, social worker or probation officer, authorized representative, attorney, and CASA and the Community Care Licensing Division of the State Department of Social Services and State Foster Care Ombudsman? (WIC, §§ 16001.9, 16501.1.)
- Has "family finding and engagement" been done to identify, locate, and contact the youth's family and family-like connections? (WIC, §§ 309(e), 16501.1, 16546, 16546.5; Fam Code, § 7950.)
 - If yes, who was found and what actions have been taken to engage extended family and other connections?
 - If no, has a court order been made that family finding efforts occur?
- Has the placing agency made a showing of diligent efforts to locate relatives?
- What efforts is the placing agency making to find or contact the child's extended family members within 30 days of removal? (WIC, § 309(e)(1).)
- Are siblings placed together? If not, has the social worker or probation officer made diligent efforts to place siblings together and to develop and maintain sibling relationships? (WIC, §§ 306.5, 362.1, 16002(b).)
- Does the social worker's report address the nature of the sibling relationship, the frequency and nature of sibling visitation, and the impact of the sibling relationships on the child's placement and permanency planning? (WIC, § 366(a)(1)(D).)
- If the child is 10 or older and has been in out-of-home placement for six months or longer, did the social worker ask the child whether there are individuals other than siblings who are important to the child? (WIC, § 366.1(k).)
- Who are the important individuals in the child's life? Has placement with one of them or a nonrelative extended family member been considered? (WIC, §§ 366.1, 362.7.)
- Does the social worker help to maintain relationships with important individuals if doing so is consistent with the child's best interest? (WIC, § 366.1(k).)
- Does the child have access to a telephone to make confidential calls to and receive them from anyone with whom the court has not limited contact? (WIC, § 16001.9(a)(13); CCR, tit. 22, §§ 83072, 84072, 89372.) Note: If the court limits specific contacts, it is appropriate for a placing agency or caregiver to restrict a child's calls with those individuals, but calls may not be restricted beyond court limitations. A caregiver may place certain reasonable restrictions on calls for disciplinary purposes.
- Is the child receiving mail unopened (unless prohibited by court order)? (WIC, § 16001.9(a)(13); CCR, tit. 22, §§ 83072, 84072, 89372.)

For additional resources on family finding and engagement, visit the "Family Finding" webpage on the California Department of Social Services website.

5.2 Extracurricular Activities

- Is the child participating in extracurricular activities, and if not, why not? (Ed Code, § 48850(a); WIC, §§ 362.05, 16001.9(a)(16); Cal Rules of Court, rule 5.651(c)(3).)
- Is the youth encouraged and permitted to participate in extracurricular, cultural, racial, ethnic, personal enrichment, and social activities consistent with their interests and geared toward the community or communities with

which they identify, including, but not limited to, access to computer technology and the internet, consistent with the youth's age, maturity, developmental level, sexual orientation, and gender identity and expression? (WIC, §§ 362.05, 16001.9.)

- In the case of an Indian child, is the child engaging in traditional Native American religious practices? (WIC, § 16001.9(a)(15).)
- If the youth is denied approval to participate in an activity that promotes the child's or youth's social and emotional development, is the resource parent adhering to the "reasonable and prudent parent" standard? (WIC, §§ 362.04, 362.05; CCR, tit. 22, § 89377(a).)

Relevant Portions of the Foster Youth Bill of Rights (WIC, § 16001.9)

(11) To be provided the names and contact information for social workers, probation officers, attorneys, service providers, foster youth advocates and supporters, Court Appointed Special Advocates (CASAs), and education rights holder if other than the parent or parents, and when applicable, representatives designated by the child's Indian tribe to participate in the juvenile court proceeding, and to communicate with these individuals privately.

(12) To visit and contact siblings, family members, and relatives privately, unless prohibited by court order, and to ask the court for visitation with the child's siblings.

(13) To make, send, and receive confidential telephone calls and other electronic communications, and to send and receive unopened mail, unless prohibited by court order.

(14) To have social contacts with people outside of the foster care system, including, but not limited to, teachers, coaches, religious or spiritual community members, mentors, and friends. If the child is an Indian child, to have the right to have contact with tribal members and members of their Indian community consistent with the prevailing social and cultural conditions and way of life of the Indian child's tribe.

(15) To attend religious services, activities, and ceremonies of the child's choice, including, but not limited to, engaging in traditional Native American religious practices.

(16) To participate in extracurricular, cultural, racial, ethnic, personal enrichment, and social activities, including, but not limited to, access to computer technology and the internet, consistent with the child's age, maturity, developmental level, sexual orientation, and gender identity and expression.

6.1 Out-of-Home Placement

- With whom and where is the child placed?
- In the case of an Indian child, does the placement comply with the ICWA placement preferences? (WIC, § 361.31.) Does the placement uphold the prevailing social and cultural standards of the child's Indian community, including but not limited to family, social, and political ties? (WIC, § 16001.9(a)(1).)
- Is this caregiver committed to being in the child's life permanently? Is the caregiver committed to legalizing that commitment if reunification is not successful (i.e., by agreeing to adoption or legal guardianship)? (42 USC § 671(a)(15)(F); WIC, §§ 358.1(i), 366.21(c), 727.2(e), 727.3(b).)
 - If not, do characteristics of the relationship make it a viable, permanent lifelong connection?
- Have barriers to permanence with the current caregiver or in general been identified and steps been taken to address any barriers?
- Is the child placed in the least restrictive family setting that promotes normal childhood experiences?
- Is proximity to the child's parents and school, the child's needs for disability support, and the child's best interests considered? (WIC, § 16501.1(d)(1), (d)(5).)
- If the child is placed with a substitute caregiver while a relative or nonrelative extended family member is going through the resource family approval process or an Interstate Compact on the Placement of Children evaluation, is visitation occurring between the child and the potential future caregiver?
- If the youth is not in an approved placement, is setting a 15-day review hearing appropriate? (WIC, § 367.)

6.2 Emergency Approval Process and Court-Ordered Placement With Relatives

6.2.1 Predetention

A parent, guardian, Indian custodian, or relative has a right to have a child released to them unless a condition in Welfare and Institutions Code section 309(a) exists. If a child is detained pending a detention hearing, relatives and nonrelated extended family members (NREFMs) who request to be assessed for placement must be assessed. (WIC, § 309(d).)

- Have relatives and NREFMs been contacted and asked whether they want emergency placement pending the detention hearing? (WIC, §§ 362.7, 309.)
- In a case involving an Indian child, is there a tribally approved home that might provide placement? (WIC, § 361.31(b)(2).)
- If a child is removed from the parent(s), relatives and NREFMs must be given preferential consideration for placement. (WIC, §§ 309, 319(h), 361.3.)
- What is the status of the agency's assessment of the following three things for any available relative or NREFM who requests emergency placement of the child? (WIC, §§ 361.4, 361.45.)
 - A home walk-through;
 - A California state-level criminal background check through the California Law Enforcement Telecommunications System (CLETS) for each adult who lives in the home; and
 - A child welfare history check through California's Child Abuse Central Index (CACI) for each adult in the home.
- A relative or NREFM who has been cleared using the emergency approval process must still take steps to complete the resource family approval application, and the agency must complete a full evaluation of the home under Welfare and Institutions Code section 16519.5.
- The agency may not make an emergency placement if there is an adult who has a criminal history unless the agency or court has approved an exemption. (WIC, § 319(h)(3).)

6.2.2 Detention Hearing and Changes in Placement Thereafter

The relative and NREFM preference for placement applies, and the agency must complete Welfare and Institutions Code section 361.4 assessments for relatives or NREFMs who are seeking placement. (WIC, §§ 319, 361.4, 361.45.)

- When the agency is unable to approve a relative or NREFM on the basis of criminal history, the court may detain the child in the home on a temporary basis if it finds that the criminal history does not pose a health or safety risk to the child. (WIC, § 319(h)(3).) When the child is an Indian child under the ICWA, the court may also temporarily detain the child with a home approved by the Indian child's tribe. (WIC, §§ 319, 16519.5.)
- Even when a relative or NREFM meets all requirements of the emergency approval process and is eligible for emergency placement of the child, the court must still determine what is best for the child. At disposition, the court will be asked to make a placement order using the Welfare and Institutions Code section 361.3 factors. If it is clear at the outset that the relative or NREFM seeking placement is not appropriate under one or more of these factors, the court should hear from all parties and carefully consider whether detaining the child in the relative's or NREFM's home is best, even on a temporary basis.
- Has the agency completed the home walk-through, CLETS, and CACI? If the child is not detained or placed with a relative or NREFM, why not? (WIC, §§ 309, 361.4.)
- If criminal background is the barrier to approving the relative or NREFM for emergency placement, is the history a risk to the child's health or safety? (WIC, § 319(h)(3).)
 - If yes, the agency can collect additional information about the criminal history and determine whether an exemption is appropriate. This can be revisited at disposition or in a Welfare and Institutions Code section 361.3 hearing.
 - If no, the court can temporarily place the child with the relative or NREFM.
- Even if the relative or NREFM meets the emergency approval requirements, is there an important basis under Welfare and Institutions Code section 361.3 to deny detention with the relative or NREFM?
- At disposition, did the social worker analyze the relative or NREFM(s) seeking placement using the eight factors in Welfare and Institutions Code section 361.3?
- If the youth is an Indian child under the ICWA, has the social worker assessed relatives, NREFMS, and extended family members as described by Welfare and Institutions Code section 224.1 and Title 25 United States Code section 1903(2)?
- Within 30 days of removal, did the social worker attempt to locate other relatives and, in the case of an Indian child, extended family members under Welfare and Institutions Code section 224.1?
- If the sole reason preventing placement is a lack of a physical item such as a crib or car seat, has the agency used reasonable efforts to assist the relative or NREFM in obtaining those items? (WIC, § 319(b).)

6.3 Placement in Short-Term Residential Therapeutic Placement and Community Treatment Facility

"Short-term residential therapeutic program," according to Welfare and Institutions Code section 11400(ad), "means a nondetention, licensed community care facility, as defined in paragraph (18) of subdivision (a) of Section 1502 of the Health and Safety Code, that provides an integrated program of specialized and intensive care and supervision, services and supports, and treatment for the child or youth, when the child's or youth's case plan specifies the need for, nature of, and anticipated duration of this specialized treatment. Short-term residential therapeutic programs shall be organized and operated on a nonprofit basis."

"Community treatment facility," according to Health and Safety Code section 1502(a)(8)(A), "means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Health Care Services pursuant to Section 4094 of the Welfare and Institutions Code."

Note: Welfare and Institutions Code section 4094(h) states that a child can only be admitted to a CTF either voluntarily pursuant to the Welfare and Institutions Code section 6552 or if "[i]nformed consent is given by a parent,

guardian, conservator, or other person having custody of the minor.” Welfare and Institutions Code section 6552 requires the court to review “the voluntary application for admission to a psychiatric residential treatment facility pursuant to Section 361.23 or 727.13, as applicable.” If a child is seeking voluntary admission to a psychiatric residential treatment facility, review section 361.23 or 727.13.

6.3.1 Initial STRTP or CTF Placement

- Within five calendar days of the youth's placement into a STRTP or CTF, has the social worker or probation officer requested the court to schedule a hearing to review the placement? (WIC, § 361.22(b).)
- Within 45 days of the start of the youth's placement into a STRTP or CTF, has the court hearing occurred to review the placement? (WIC, § 361.22(a); Cal Rules of Court, rule 5.618.)
- When reviewing the STRTP placement, has the court considered the factors listed in Welfare and Institutions Code section 361.22(e) and California Rules of Court, rule 5.618(g)?
- Does the hearing report contain the qualified individual's assessment, determination, and documentation and case plan? (WIC, §§ 361.22(c), 16501.1(d)(2).)
- Was unauthorized confidential information included in the qualified individual's assessment or report? (Cal Rules of Court, rule 5.618(d)(3).)
- Were the requirements repeated for each new and subsequent STRTP or CTF placement? (WIC, 361.22(a).)

6.3.2 Periodic Reviews of STRTP and CTF Placements

- At every review hearing held under Welfare and Institutions Code sections 366 and 366.3, when considering whether the placement in a court-approved STRTP or CTF is appropriate, does the supplemental report include evidence of the following?
 - Whether placement in a STRTP or CTF continues to provide the most effective and appropriate care setting in the least restrictive environment;
 - Documentation of the child's specific treatment needs that will be met in placement and the length of time the child is expected to need the treatment; and
 - Documentation of intensive and ongoing efforts to return the child home or to place the child in a less restrictive and more family-based setting? (WIC, §§ 361.22(e), 366, 366.1(l), 366.3(k).)

6.4 Change of Placement

- If there are problems arising in the placement that may lead to the caregiver requesting removal of the child, what efforts have been made to stabilize the placement? Has a placement preservation strategy been developed? (WIC, § 16010.7; Family Urgent Response System.⁴)
- Has respite care been used to try to stabilize the placement?
- How many placements has the child had? If the same issue(s) are leading to another placement change, what services are available to prevent another failed placement?
- Is there a plan to change the child's placement?
- Absent the placement posing an imminent risk to the health or safety of the child or others in the same home, waiver of notice if the child is 10 years of age or older, or unanimous agreement of the child and family team, was written notice of the placement change served on all required parties at least 14 calendar days prior to the change? (WIC, § 16010.7(e).)
 - If yes, how is the proposed change of placement in the child's best interest? (WIC, §§ 361.2(e), 16501.1(d).)
- Was the new placement based on a selection of a safe setting that:
 - Actively involved the child?

⁴ Family Urgent Response System, www.cdss.ca.gov/inforesources/cdss-programs/foster-care/furs/messages.

- Is the least restrictive or most family like? (WIC, § 16501.1(d)(1).)
- Is the most appropriate setting available? (*Ibid.*)
- Is near the parent's or guardian's home or tribe? (WIC, §§ 361.2(g), 16501.1(d)(1).)
- Is best suited to meet the child's special needs and best interest?
- Promotes educational stability by taking into consideration nearness to the child's school and tribe? (WIC, § 16501.1(d); Ed Code, § 48853.)
- Was the least restrictive setting for out-of-home placement in Welfare and Institutions Code section 361.2(e) considered? The order for out-of-home placement is (1) noncustodial parent, (2) approved relative who has been assessed under Welfare and Institutions Code section 361.4 and is pending approval under Welfare and Institutions Code section 16519.5, (3) nonrelative extended family members, (4) nonrelative resource home or approved or certified home of a foster family agency, (5) intensive services foster home, and (6) STRTP or CTF. (WIC, § 361.2(e).)
- In the case of an Indian child any change in placement must consider and comply with the ICWA placement preferences, including consulting with the child's tribe regarding the change in placement. (WIC, § 361.31.)
- If the child is 10 or older, was the child informed of changes to the case plan regarding out-of-home placement? (WIC, §§ 16001.9, 16010.7.)
- Was the child's attorney notified of the change of placement and provided with information regarding the child's address, phone number, and caregiver by the end of the next business day after the placement decision was made? (WIC, § 16010.6(a).)
- If the change of placement will separate siblings, were the child's attorney and sibling's attorney notified of the proposed change at least 10 calendar days prior to the change? (WIC, § 16010.6(c).)
- If a placement has requested removal of the child, was the child's attorney informed by the end of the next business day? (WIC, § 16010.6.)
- If the change of placement results in a placement in an STRTP or CTF, see Section 6.3.
- If the placement has changed, have all required medications been provided to the new caretaker?
- Will the child lose any service relationships, such as their therapist? Can these relationships be maintained?

6.5 Change of Placement and Education

- Students in foster care must have access to the same academic resources, services, and extracurricular and enrichment activities that are available to all students. All educational and school placement decisions are made by the educational rights holder in consultation with other parties, must be based on the child's best interests, and must consider, among other factors, educational stability and the least restrictive educational setting necessary to achieve academic progress. (Ed Code, §§ 48850(a)(1), 48853(h); WIC, §§ 361(a)(6), 726(c)(2).)
- Is the child's local educational agency (LEA) allowing the child to continue attending the school of origin for the rest of the academic year? (Ed Code, § 48853.5(d)(1).)
 - If no, has this resulted in a change of school for the child?
 - If yes, see Section 7.
- What impact has this move had on the child and the child's educational progress? (Ed Code, § 48853.5; WIC, § 16501.1(c).) Note: Proper and timely transfer between schools is the responsibility of both the LEA and the county placing agency. (Ed Code, § 49069.5(b).)
- Every school must have a foster youth educational liaison. Did this liaison facilitate the proper educational placement, enrollment in school, and checkout from school? (Ed Code, § 48853.5(b); California county and district Assembly Bill 490 contacts.⁵)

⁵ California county and district AB 490 contacts, www.cde.ca.gov/ls/pf/fy/ab490contacts.asp.

- If the child is transferring from one district to another, did the educational liaison facilitate the proper transfer of credits, records, and grades? (Ed Code, § 48853.5(c).)
- Did the county placing agency notify the student's LEA as soon as possible of the date the child will be leaving the school and request that the child be transferred? (Ed Code, § 49069.5(c).)
- If the child needs disability support or has an individualized education plan (IEP), at least 10 days before the placement change, did the county placing agency notify both the LEA providing the disability support program for the child and the receiving LEA of the impending placement change? (Gov Code, § 7579.1(a)(1).)
- What were the placing agency's efforts to maintain the child in the school of origin, despite the foster care placement change? (WIC, § 16501.1(d); Ed Code, § 48853.5(f), (g); 42 USC § 11432(g)(3)(B)(i).)
- Was the child given the opportunity to continue at their school of origin for the duration of the academic school year before a placement change occurred? Did the child and the person holding educational rights agree to waive the child's right to attend the school of origin? (Ed Code, § 48853.5(f).)
- After receiving the transfer request, did the LEA transfer the child out of school and deliver the records, including any evaluations of a child with a disability, to the next educational placement within two business days? (Ed Code, §§ 48853.5(d), 49069.5(d) & (e).)
 - If not, who should be directed to ensure that records are transferred?
- Did the child's school records include a determination of seat time, full or partial credits earned, classes, grades, immunization, and (if applicable) disability support or plans under section 504 of the Rehabilitation Act of 1973? (Ed Code, § 49069.5.)
- Did the new school immediately enroll the child, even if the child's records, transcripts, and other documentation had not been transferred? (Ed Code, § 48853.5.)
- Were the child's grades and credits calculated as of the date the child left the prior school? (Ed Code, § 49069.5(g).)
- If jurisdiction is being terminated and the child is in kindergarten through grade 8, is the child being allowed to continue attending the school of origin for the rest of the school year? (Ed Code, § 48853.5(f).)
- If jurisdiction is being terminated and the child is in high school, is the child being allowed to attend the school of origin until graduation? (Ed Code, § 48853.5(f).)
- Did the child's or youth's attorney discuss the proposed placement change and its effect on the child's or youth's right to attend the school of origin with the child or youth and the person who holds educational rights? Did the child's or youth's attorney consider requesting a hearing by filing form JV-539? (Cal Rules of Court, rule 5.651(e).)
 - Within two court days after notice of a change of placement that affects the child's ability to attend the school of origin, has the child's attorney or education rights holder filed a request for a hearing to review the proposed removal from the school of origin and provided proper notice of the hearing date no later than five court days after the request was filed? If this option has been completed, has the court set a hearing date within seven days of the filing of the request? Has the child remained at the school of origin pending resolution of the dispute? (Cal Rules of Court, rule 5.651(e); Ed Code, § 48853.5.)

Relevant Portions of the Foster Youth Bill of Rights (WIC, § 16001.9)

(1) To live in a safe, healthy, and comfortable home where they are treated with respect. If the child is an Indian child, to live in a home that upholds the prevailing social and cultural standards of the child's Indian community, including, but not limited to, family, social, and political ties.

(2) To be free from physical, sexual, emotional, or other abuse, corporal punishment, and exploitation.

(3) To receive adequate and healthy food, adequate clothing, grooming and hygiene products, and an age-appropriate allowance. Clothing and grooming and hygiene products shall respect the child's culture, ethnicity, and gender identity and expression.

(4) To be placed in the least restrictive setting possible, regardless of age, physical health, mental health, sexual orientation, and gender identity and expression, juvenile court record, or status as a pregnant or parenting youth, unless a court orders otherwise.

(5) To be placed with a relative or nonrelative extended family member if an appropriate and willing individual is available.

(6) To not be locked in any portion of their foster care placement, unless placed in a community treatment facility.

(7) To have a placement that utilizes trauma-informed and evidence-based deescalation and intervention techniques, to have law enforcement intervention requested only when there is an imminent threat to the life or safety of a child or another person or as a last resort after other diversion and deescalation techniques have been utilized, and to not have law enforcement intervention used as a threat or in retaliation against the child.

(9) To have storage space for private use.

(10) To be free from unreasonable searches of personal belongings.

(40) (A) To be informed of these rights in an age and developmentally appropriate manner by the social worker or probation officer and to be provided a copy of the rights in this section at the time of placement, any placement change, and at least once every six months or at the time of a regularly scheduled contact with the social worker or probation officer. (B) For a child who speaks a primary language other than English, to be provided a copy of the child's rights in the child's primary language.

(41) To be provided with contact information for the Community Care Licensing Division of the State Department of Social Services, the tribal authority approving a tribally approved home, and the State Foster Care Ombudsperson, at the time of each placement, and to contact any or all of these offices immediately upon request regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.

7.1 Education and Developmental Decisions

(See 34 CFR § 300.30 (2006); WIC, §§ 319, 361, 366.27; Gov Code, §§ 7579.5, 7579.6.)

- Has the court addressed or limited the parent's or guardian's right to make educational or developmental services decisions for the child? If yes, who holds the rights for the child?
- Are the child's educational and developmental services needs being met?
- Does the child qualify for, and have access to, special education services or mental health services through school?
- This includes asking whether the child has access to preschool, Headstart, Early Start, applied behavior analysis, and other early developmental opportunities.
- Does the educational rights holder need assistance in making educational or developmental services decisions for the child?
- Is the educational rights holder unwilling or unable to meet the child's educational and developmental services needs?
 - If yes, the court may consider limiting educational or developmental services rights.
- Does the child have any physical, mental, or learning disabilities that may qualify for accommodations or services? (20 USC § 1400 et seq.; 29 USC § 794; 42 USC § 12101 et seq.; 34 CFR § 104.1 et seq.)
- Does the child have access to extracurricular activities, and does their placement promote normal childhood experiences? (WIC, § 16519.5; Ed Code, § 48850.)

7.2 Limiting Educational or Developmental Services Rights

- If the parent or guardian is unable or unwilling to meet the child's educational needs, the parent's or guardian's educational or developmental services rights should be limited and a responsible adult should be appointed as the child's educational representative. (WIC, §§ 319(j), 358.1(e), 361, 366.27.)
- If the court has appointed a responsible adult, did the social worker, probation officer, or clerk of the court forward to the school district a copy of *Order Designating Educational Rights Holder* (form JV-535), identifying who holds the educational or developmental services rights?
- If the court has limited educational or developmental services rights and cannot identify a responsible adult to make those decisions for a child who might need or already has an individualized education program, the LEA or the court may appoint a surrogate parent; the child is or may be eligible for disability support and related services. (20 USC § 1415(b); 34 CFR §§ 300.30(a)(5) (2006), 300.519; WIC, § 361(a)(4); Gov Code, § 7579.5(a)(1).)
- Did the court refer the child to the LEA for appointment of a surrogate? (WIC, § 361(a)(4); Gov Code, § 7579.5(a)(1).)
- Did the LEA appoint a surrogate parent not more than 30 days after determining that the child needs a surrogate parent? (20 USC § 1415(b)(2)(B); Gov Code, § 7579.5.)
- If the court cannot identify a responsible adult to make educational decisions for the child and if appointing a surrogate parent is not legally warranted, the court may make educational decisions for the child. (WIC, §§ 319(j)(3), 361(a)(4)(C).)
- Has the educational rights holder been fully informed of, and provided consent in writing for, the activity for which consent is sought? (34 CFR § 300.9; Ed Code, §§ 56321, 56341(h), 56346.)
- Note: The child's attorney, social workers, and probation officers do not have the authority to make decisions regarding the child's educational and developmental services rights and may not be appointed to make educational decisions for the child. If a nonpublic agency is providing the child with education or care or has a conflict of interest, neither it nor any person employed by it may be appointed to make educational decisions for the child. (See Gov Code, § 7579.5(i), (j); WIC, § 361(a).)

7.3 School Placement

- Where is the child going to school? Was the school placement based on the best interests of the child? (Ed Code, §§ 48850(a), 48853(g).)
- Foster youth are entitled to be placed in the least restrictive educational placement. Regular comprehensive school placements must be considered before any alternative school placement. (Ed Code, § 48853.) Foster children who need disability support may be placed in a nonpublic school only if the district has no public program that can meet the child's needs or the person who holds educational rights consents to a nonpublic school placement. (Ed Code, §§ 48853, 56157(a).)
- Is the child now attending an alternative school (e.g., continuation school, community school, independent study) or a regular comprehensive school? If the placement is an alternative school, on what basis was this placement made? (Ed Code, § 48853.)
- If the child is in an emergency shelter, is the child receiving educational services at the shelter for a short period of time, if it is for health and safety emergencies or because a decision whether it is in the child's best interests to attend the school of origin cannot be made promptly, it is not practical to transport the child to the school of origin, and the child would otherwise not receive educational services? (Ed Code, § 48853(g)(1).)
- Has the child been placed in a nonpublic school onsite at the child's placement? If yes, is this school placement based on an individualized education plan (IEP) and has the person who holds education rights consented? (Ed Code, § 48853(a)(2).)
- Are educators, advocates, the court, the educational rights holder, the tribal social worker, the education liaison, and the emergency placement; the child's STRTP or CTF placement; and the caregiver working together to maintain a stable school placement? (Ed Code, § 48850(a).)
- Is transportation to and from school provided? If not, did this affect the child's educational placement? (42 USC § 11432(e), (g).)
- While in foster care, how many schools has the child attended before the current one? What can be done to minimize further school changes?

Relevant Portions of the Foster Youth Bill of Rights (WIC, § 16001.9)

(27) To attend school, to remain in the child's school of origin, to immediate enrollment upon a change of school, to partial credits for any coursework completed, and to priority enrollment in preschool, after school programs, a California State University, and each community college district, and to receive all other necessary educational supports and benefits, as described in the Education Code.

(28) To have access to existing information regarding the educational options available, including, but not limited to, the coursework necessary for career, technical, and postsecondary educational programs, and information regarding financial aid for postsecondary education, and specialized programs for current and former foster children available at the University of California, the California State University, and the California Community Colleges.

(29) To attend Independent Living Program classes and activities, if the child meets the age requirements, and to not be prevented by caregivers from attending as a consequence or punishment.

8.1 Emotional Health and Screening

- How is the child emotionally responding to separation from the child's family of origin, to school, and to placement?
- What else can be done to support the emotional well-being of the child?
- Has the child received a mental health screening?
 - If yes, what screening tool(s) were used (e.g., the Child and Adolescent Needs and Strengths (CANS) assessment tool⁶)?
- Did the results of the screening indicate a need for further assessment?
 - If yes, has a further assessment been completed?
- Is there a primary diagnosis?
- If a provider has recommended specialized testing (e.g., psychological or neuropsychological evaluation), are referrals for the testing and the testing being completed in a timely manner?

8.2 Psychotropic Medication

- Psychotropic medications are medications prescribed to affect the central nervous system to treat psychiatric disorders or illnesses. When medications such as Benadryl or Melatonin are prescribed to treat insomnia, they are considered a psychotropic medication. (WIC, § 369.5; Cal Rules of Court, rule 5.640(a); also see the *California Guidelines for the Use of Psychotropic Medication with Children and Youth in Foster Care 2018 Edition*.⁷)
- A court order is not needed when:
 - The court has delegated medication authorization to a parent or legal guardian. (WIC, § 369.5; Cal Rules of Court, rule 5.640; see also *Order Delegating Judicial Authority Over Psychotropic Medication* (form JV-216).)
 - The youth is a nonminor dependent.
- If the case involves an Indian child, the child's tribe is entitled to notice of the application (Cal Rules of Court, rule 5.640(c)(10)), and is entitled to provide input on the application. (Cal Rules of Court, rule 5.640(c)(2).)
- Several forms must be submitted to the court before the court signs an *Application for Psychotropic Medication* (form JV-220) authorizing or reauthorizing the use of psychotropic medication. (WIC, § 369.5(a)(2); see also Cal Rules of Court, rule 5.640(c); *Guide to Psychotropic Medication Forms* (form JV-217-INFO).)
- These forms include:
 - » *Child's Opinion About the Medicine* (form JV-218) (optional);
 - » *Statement About Medicine Prescribed* (form JV-219) (optional);
 - » *Application for Psychotropic Medication* (form JV-220);
 - » *Physician's Statement—Attachment* (form JV-220(A));
 - » *Physician's Statement to Continue Medication—Attachment* (form JV-220(B));
 - » *Proof of Notice of Application* (form JV-221);
 - » *Input on Application for Psychotropic Medication* (form JV-222) (optional); and
 - » *County Report on Psychotropic Medication* (form JV-224), which must be filed for any hearing that the court is providing oversight of psychotropic medications for. This includes hearings reviewing the authorization of psychotropic medication and all status review hearings.

⁶ "The Integrated Practice Child and Adolescent Needs and Strengths (IP-CANS) Tool," www.cdss.ca.gov/inforesources/foster-care/cans/the-cans-tool/cans-resources.

⁷ *California Guidelines for the Use of Psychotropic Medication with Children and Youth in Foster Care 2018 Edition*, www.dhcs.ca.gov/services/HCPFCF/Documents/CA-Guidelines-for-Use-of-Psychotropic-Medication-3-23-22.pdf.

- The court must use the *Order on Application for Psychotropic Medication* (form JV-223) to grant or deny the application. (Cal Rules of Court, rule 5.640(c)(9).)
- Prior to authorizing or reauthorizing psychotropic information, the court should consider:
 - Does the application and attached forms provide complete and sufficient information?
 - If three or more psychotropic medications will be prescribed for 90 days or more, has the procedure under California Rules of Court, rule 5.642 been followed?
 - Have other treatment options been tried in order to decrease or eliminate the child's need for medication? (For initial authorization: WIC, § 369.5(a)(2)(B)(iii); see JV-220, item 11; JV-220(A), item 10.) (For reauthorization: see JV-220, items 8, 10, 11; JV-220(B), item 15.)
- Has the child's input been considered? The court should consider the child's feelings about taking medication, the child's understanding about the needs and importance of taking the medication, and any reported side effects. (See form JV-218.)
- Has the caregiver's input been considered? Does the caregiver support the child taking psychotropic medications, and have other treatment modalities been offered? What behaviors or mental health issues are the caregiver observing that suggest medication may be helpful? How will the caregiver monitor the child's use of medication, and, if medication was previously authorized, have there been positive or negative changes or side effects as a result of the medication being authorized?
- If the child is not placed with a parent, has the parent had the opportunity to provide information about whether they support the child taking medication?

8.3 Mental Health Services

- If the child might benefit from mental health services, is the child receiving these services? (WIC, § 370; Fam Code, § 6924.)
- If the youth has Medi-Cal, are they receiving the services in a timely manner? (See Appendix B.)
- If the child is receiving mental health services, how is the child participating in and responding to these services?
- Has consideration been given to whether these services should include family participation?
- Do court reports contain sufficient information concerning the child's mental health status? (WIC, § 16010(a), (b).)
- If the child is 12 years of age or older, has the child invoked their right to consent to mental health treatment or counseling on an outpatient or residential shelter basis? (Fam Code, § 6924.)

8.4 Service Provider and Treatment Plan

- Does the child's treating therapist have experience providing mental health services to children involved in juvenile court proceedings?
- Is the therapist a licensed clinician?
- What is the child's feelings about the therapeutic relationship? Do they find it beneficial?
- You may want to consider the relevance of the clinician's gender, language abilities, cultural competence, and location as well as experience working with children who have been removed from, or are at risk of being removed from, their parents or guardians.
- If the child is receiving therapeutic services via telehealth, is the child comfortable with this or would the child prefer to be seen in person?
- Did the child, family, and caretaker all have input into the treatment goals and therapeutic plan?
- Are the mental health services currently being provided adequate to meet the child's needs?
- If over 12 years of age, has the child invoked the psychotherapist–client privilege? (WIC, § 317(f).)

8.5 Presumptive Transfer

- A presumptive transfer occurs when the responsibility for providing or arranging for specialty mental health services for dependent children and youth transfers from the county of original jurisdiction to the county where the child resides. (WIC, § 14717.1(c).)
- Beginning July 1, 2024, the child's county of original jurisdiction must retain responsibility to provide specialty mental health services when the child is placed out of county in a community treatment facility, STRTP, or children's crisis residential program as defined in Health and Safety Code sections 1502 (a)(13), (18), or (21). (WIC, § 14717.2(b).)
- Exceptions to Welfare and Institutions Code section 41717.2(b) may be made, and the county where the child resides may be responsible for providing mental health services if the case plan specifies the child will transition to a least restrictive environment in the county where the child resides or a determination is made by the placing agency and CFT that the child will not be negatively impacted by the transfer of the responsibility to provide specialty mental health services to the child's county of residence. (WIC, § 14717.2(b)(1) & (2).)
- Notice of the change of placement outside the county of jurisdiction should occur 14 days prior to the placement. Was the notice properly given to the child, if 10 years of age or older, and the child's attorney? (WIC, § 361.2(h).)
- The notice requirement prior to placement can be waived if the child and family team has identified the placement to be in the best interests of the child and if the child's attorney and, if applicable, the Indian custodian or child's tribe do not object. (WIC, § 361.2(h)(2)(A).)
- Additional resources:
 - All County Letter 18-60, *Presumptive Transfer Policy Guidance* (www.cdss.ca.gov/Portals/9/ACL/2018/18-60.pdf?ver=2018-07-02-150836-460)
 - All County Letter 17-77, *Implementation of Presumptive Transfer for Foster Children Placed Out of County* (www.cdss.ca.gov/Portals/9/ACL/2017/17-77.pdf)
 - California Department of Social Services' *Presumptive Transfer Informational Guide* (www.cdss.ca.gov/Portals/9/ISU/Presumptive%20Transfer/Presumptive%20Transfer%20Document%2002-22-2019%20FINAL.pdf?ver=2019-02-22-105909-390)

8.6 Voluntary Admission Into a Psychiatric Residential Treatment Facility

- If a child, youth, or nonminor dependent wishes to voluntarily be admitted to a psychiatric facility, has their attorney advised them of their rights and assisted them to complete the voluntary application? (WIC, § 6552.)
- Has the juvenile court reviewed the application for voluntary admission? (WIC, § 361.23(a).)
- Did the social worker file the ex parte application for voluntary admission within 48 hours of being informed of the request? Or, if the court was closed for more than 48 hours after being informed of the request, did the social worker file the ex parte application on the first judicial day after being informed of the request? (WIC, § 361.23(b)(1).)
- Did the ex parte application include all information required under Welfare and Institutions Code section 361.23(b)(1)(A)–(I)? That information is:
 - (A) A brief description of the child's mental disorder;
 - (B) The name of the psychiatric residential treatment facility proposed for treatment;
 - (C) A brief description of how the mental disorder may reasonably be expected to be cured or ameliorated by the course of treatment offered by the psychiatric residential treatment facility;
 - (D) A brief description of why the facility is the least restrictive setting for care and why there are no other available hospitals, programs, or facilities that might better serve the child's medical needs and best interest;

- (E) A copy of the child welfare agency's plan developed under Welfare and Institutions Code section 16010.10(c) and (d);
 - (F) (i) If the parent, guardian, or Indian custodian is seeking the child's admission to the facility, the basis of their belief that the child's admission to a psychiatric residential treatment facility is necessary;
(ii) If the child is seeking admission, whether the parent, guardian, or Indian custodian agrees with the child's request for admission;
 - (G) A description of any mental health services, including community-based mental health services, that were offered or provided to the child and an explanation of why those services were not sufficient, or an explanation for why no such services were offered or provided;
 - (H) A statement describing how the child was given an opportunity to confer privately with their counsel regarding the admission, as required by Welfare and Institutions Code section 6552; and
 - (I) A brief description of whether any member of the minor's child and family team objects to the admission, and the reasons for the objection, if any.
- If the child is seeking voluntary admission, has the court inquired of the child whether they knowingly and intelligently consented to the admission, including whether they are giving consent without fear or threat of detention or initiation of conservatorship proceedings? (WIC, § 361.23(c)(2)(B).)
 - The court's order authorizing voluntary admission to a psychiatric facility remains in effect until the first of the following events occurs:
 - The parent, guardian, or Indian custodian, or the child if admission was under Welfare and Institutions Code section 6552, withdraws consent;
 - The court finds the child is no longer in need of treatment or that the psychiatric residential treatment facility is no longer the least restrictive environment to provide the child's treatment; or
 - The court makes a superseding order. (*Ibid.*)

8.7 Conservatorship

- Does the child have or need a conservator? (WIC, § 5350 et seq.) If there is a conservatorship investigation, did the investigator consider all suitable alternatives? (WIC, § 5354(a).)
- When was the conservatorship granted?
- What is the conservator's name?
- What is the date of the next conservatorship hearing?
- Does the child still need a conservator?
- If the child is requesting the conservatorship be removed, has the minor's attorney assisted the child to find representation to terminate the conservatorship?
- If the conservator consented to the child's admission to a psychiatric residential treatment facility, has the court made the required findings and orders? (*Admission to Psychiatric Residential Treatment Facility by Consent of Conservator—Additional Findings and Orders* (form JV-177).)

Relevant Portions of the Foster Youth Bill of Rights (WIC, § 16001.9)

(11) To be provided the names and contact information for social workers, probation officers, attorneys, service providers, foster youth advocates and supporters, Court Appointed Special Advocates (CASAs), and education rights holder if other than the parent or parents, and when applicable, representatives designated by the child's Indian tribe to participate in the juvenile court proceeding, and to communicate with these individuals privately.

(22) (A) To access and receive medical, dental, vision, mental health, and substance use disorder services, and reproductive and sexual health care, with reasonable promptness that meets the needs of the child, to have diagnoses and services explained in an understandable manner, and to participate in decisions regarding health care treatment and services. This right includes covered gender affirming health care and gender affirming mental health care, and is subject to existing laws governing consent to health care for minors and nonminors and does not limit, add, or otherwise affect applicable laws governing consent to health care.

(B) To view and receive a copy of their medical records to the extent they have the right to consent to the treatment provided in the medical record and at no cost to the child until they are 26 years of age.

(23) Except in an emergency, to be free of the administration of medication or chemical substances, and to be free of all psychotropic medications unless prescribed by a physician, and in the case of children, authorized by a judge, without consequences or retaliation. The child has the right to consult with and be represented by counsel in opposing a request for the administration of psychotropic medication and to provide input to the court about the request to authorize medication. The child also has the right to report to the court the positive and adverse effects of the medication and to request that the court reconsider, revoke, or modify the authorization at any time.

(25) At 12 years of age or older, to choose, whenever feasible and in accordance with applicable law, their own health care provider for medical, dental, vision, mental health, substance use disorder services, and sexual and reproductive health care, if payment for the service is authorized under applicable federal Medicaid law or other approved insurance, and to communicate with that health care provider regarding any treatment concerns or needs and to request a second opinion before being required to undergo invasive medical, dental, or psychiatric treatment.

(26) To confidentiality of medical and mental health records, including, but not limited to, HIV status, substance use disorder history and treatment, and sexual and reproductive health care, consistent with existing law.

9.1 Health and Education

- Did the child receive a medical and dental examination within 30 days of placement? (MPP 31-405.241.)
- Does the child's current case plan include a summary of their health and education information? (WIC, § 16010(a).)
- Do the court reports include a copy of the child's current health and education summary? (WIC, § 16010(b).)
- Does the child's caregiver have a complete and up-to-date health and education passport? (WIC, § 16010(c).)
- Who is the child's "medical champion"?

9.2 Insurance, Appointments, and Exams

- Does the child have Medi-Cal or other health insurance? (42 USC § 1396 et seq.; WIC, § 14007.8.)
- Is the child receiving ongoing primary and preventive health care services? (WIC, § 16001.9(a)(22).)
- If the child is under two years old, is the child receiving preventive health care examinations on the periodicity schedule required for that age group? (CCR, tit. 17, § 6847(c).)
- If the child is two to three years of age, is the child receiving annual preventive health care examinations? If not, why not? (CCR, tit. 17, § 6847(c).)
- If the child is at least one year old, is the child receiving dental examinations every six months, as recommended by the American Academy of Pediatric Dentistry?⁸
- Is the child receiving periodic well-child exams as recommended by the American Academy of Pediatrics?⁹
- When should the next exam be scheduled? (*Ibid.*) Do such examinations meet Child Health and Disability Prevention criteria? (42 USC § 1396 et seq.; MPP 31-405.24.)
- When was the child's vision last evaluated? When should the next examination be scheduled?
- Does the child have, or need, glasses or contact lenses?
- When was the child's hearing last evaluated? When is the child due for the next examination? Does the child have, or need, any hearing aids?
- If appropriate, has the child been placed in a home that serves medically fragile children? (WIC, §§ 17710, 17730–17733.)
- Is the child up to date on their immunizations? (CCR, tit. 17, § 6846(b)(9).)
- When was the child last seen by a dentist? When is the child due for the next examination?

9.3 Basic Health Care

- Does the child have a primary health care physician?
- Does the child have any current medical problems?
- Is the child taking prescribed medications? If yes, does the child have these medications at the current placement?

⁸ American Academy of Pediatric Dentistry, "Periodicity of Examination, Preventive Dental Services, Anticipatory Guidance/Counseling, and Oral Treatment for Infants, Children, and Adolescents," (2022) *The Reference Manual of Pediatric Dentistry*, pp. 288–300, www.aapd.org/globalassets/media/policies_guidelines/bp_periodicity.pdf.

⁹ Bright Futures, American Academy of Pediatrics, *Recommendations for Preventive Pediatric Health Care* (2023), https://downloads.aap.org/AAP/PDF/periodicity_schedule.pdf.

- Have any substance abuse concerns been identified? If yes, how are these concerns being addressed? (Fam Code, § 6929; WIC, §§ 359, 16001.9(a)(22).)
- If over 12 years of age, has the child been given the opportunity to choose their own provider for medical, dental, vision, mental health, substance use disorders, and sexual and reproductive health care? (WIC, § 16001.9(a)(25).)
- Are all identified health care needs being followed up on with appropriate referrals to diagnosis and treatment? (CCR, tit. 17, § 6850.)

9.4 Information Sharing, Privilege, and Consent

- Has the placing agency provided the substitute care provider with the child's medical history? (WIC, § 16010(c).)
- Has the substitute care provider received information about Child Health and Disability Prevention services? (MPP 31-405.23.)
- When necessary, is a release of information (ROI) signed so that information can be shared as appropriate?
- Is the child aware of their rights to not disclose confidential information? Has the child made an informed decision on the sharing of their confidential information? (WIC, § 16001.9(26).)
- If over 12 years of age, has the child invoked the physician–patient privilege? (WIC, § 317(f).)

9.5 Pregnancy and Reproductive Health

- Has the child invoked the right to consent to medical care related to the prevention or treatment of pregnancy? (WIC, § 16001.9(a)(22), (24), (25); Fam Code, § 6925; Hlth & S Code, § 123450.) Note: Parental consent is not required for abortions. (*American Academy of Pediatrics v. Lungren* (1997) 16 Cal.4th 307.)
- Has the child invoked the right to consent to or decline medical care related to the diagnosis or treatment of sexual assault or, if the child is age 12 or older, of rape, sexually transmitted diseases, or drug- or alcohol-related problems? (Fam Code, §§ 6926–6929; WIC, §§ 220–222, 16001.9(a)(24)(C).)
- Does the youth have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy, and the prevention and treatment of sexually transmitted infections? (WIC, § 16001.9(a)(24)(A).)
- Is the youth aware of their right to possess and use the contraception of their choice? (WIC, § 369(h); Fam Code, § 6925.)
- Is the youth receiving safe and reasonable time-sensitive transportation to reproductive and sexual health–related services? (CCR, tit. 22, § 80075(a).)
- If the youth is a parent or an expectant parent, are they aware of resources and supports for themselves and their children? (California Department of Social Services' Expectant Parent and Parenting Support Hub.¹⁰)

For additional resources for dependents and nonminor dependents on healthy sexual development, reproductive health, and pregnancy, see the California Department of Social Services website's "Resources for Youth" webpage.¹¹

¹⁰ Expectant Parent and Parenting Support Hub, www.cdss.ca.gov/inforesources/cdss-programs/foster-care/healthy-sexual-development-project/expectant-parent-and-parenting-support-hub.

¹¹ California Department of Social Services, "Resources for Youth," www.cdss.ca.gov/inforesources/foster-care/healthy-sexual-development-project/resources-for-youth.

Relevant Portions of the Foster Youth Bill of Rights (WIC, § 16001.9)

(22) (A) To access and receive medical, dental, vision, mental health, and substance use disorder services, and reproductive and sexual health care, with reasonable promptness that meets the needs of the child, to have diagnoses and services explained in an understandable manner, and to participate in decisions regarding health care treatment and services. This right includes covered gender affirming health care and gender affirming mental health care, and is subject to existing laws governing consent to health care for minors and nonminors and does not limit, add, or otherwise affect applicable laws governing consent to health care.

(B) To view and receive a copy of their medical records to the extent they have the right to consent to the treatment provided in the medical record and at no cost to the child until they are 26 years of age.

(23) Except in an emergency, to be free of the administration of medication or chemical substances, and to be free of all psychotropic medications unless prescribed by a physician, and in the case of children, authorized by a judge, without consequences or retaliation. The child has the right to consult with and be represented by counsel in opposing a request for the administration of psychotropic medication and to provide input to the court about the request to authorize medication. The child also has the right to report to the court the positive and adverse effects of the medication and to request that the court reconsider, revoke, or modify the authorization at any time.

(24) (A) To have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy, and the prevention and treatment of sexually transmitted infections.

(B) At any age, to consent to or decline services regarding contraception, pregnancy care, and perinatal care, including, but not limited to, abortion services and health care services for sexual assault without the knowledge or consent of any adult.

(C) At 12 years of age or older, to consent to or decline health care services to prevent, test for, or treat sexually transmitted diseases, including HIV, and mental health services, without the consent or knowledge of any adult.

(25) At 12 years of age or older, to choose, whenever feasible and in accordance with applicable law, their own health care provider for medical, dental, vision, mental health, substance use disorder services, and sexual and reproductive health care, if payment for the service is authorized under applicable federal Medicaid law or other approved insurance, and to communicate with that health care provider regarding any treatment concerns or needs and to request a second opinion before being required to undergo invasive medical, dental, or psychiatric treatment.

(26) To confidentiality of medical and mental health records, including, but not limited to, HIV status, substance use disorder history and treatment, and sexual and reproductive health care, consistent with existing law.

- Is the youth placed in out-of-home care according to their gender identity, regardless of the gender or sex listed in their court, child welfare, medical, or vital records? Is the youth referred to by their preferred name and gender pronoun? (WIC, § 16001.9(a)(19).)
- Unless the child permits the information to be disclosed, disclosure is required to protect their health and safety, or disclosure is compelled by law or a court order, is the youth's privacy regarding sexual orientation and gender identity and expression maintained? (*Ibid.*)
- If the youth is experiencing parental rejection because of the youth's sexual orientation or gender identity, what is being done to support the family's acceptance and reconciliation?
- Is the youth receiving adequate clothing, grooming, and hygiene products that respect the youth's culture, ethnicity, and gender identity and expression? (WIC, § 16001.9(a)(3).)
- Is the youth placed in the least restrictive setting possible, regardless of age, physical health, mental health, sexual orientation, gender identity and expression, juvenile court record, or status as a pregnant or parenting youth, unless the court orders otherwise? (WIC, § 16001.9(a)(4).)
- Is the youth able to participate in extracurricular, cultural, racial, ethnic, personal enrichment, and social activities, including, but not limited to, access to computer technology and the internet consistent with the child's age, maturity, developmental level, sexual orientation, and gender identity and expression? (WIC, § 16001.9(a)(16).)
- Does the youth have fair and equal access to all available services, placement, care, treatment, and benefits? Is the youth protected from discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity and expression, mental or physical disability, or HIV status? (WIC, § 16001.9(a)(17).)
- Does the youth have caregivers, child welfare and probation personnel, and legal counsel who have received instruction on cultural competency and sensitivity relating to sexual orientation, gender identity and expression, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender children in out-of-home care? (WIC, § 16001.9(a)(18).)
- Is the youth given access to and receiving medical, dental, vision, mental health, substance use disorder services, and reproductive and sexual health care, with reasonable promptness that meets the needs of the child? Is the youth having diagnoses and services explained in an understandable manner and participating in decisions regarding health care treatment and services? This right includes gender-affirming health care and gender-affirming mental health care, is subject to existing laws governing consent to health care for minors and nonminors, and does not limit, add, or otherwise affect applicable laws governing consent to health care. (WIC, §§ 16010.2, 16001.9(a)(22).)
- Is the child receiving gender-affirming health care? (WIC, §§ 16010.2, 16001.9(a)(22).)
- Is the child involved in the development of their case plan, including placement decisions, and plan for permanency? This includes, but is not limited to, the development of case plan elements related to placement and gender-affirming health care, with consideration of the child's gender identity. If the child is an Indian child, the case plan must include protecting the essential tribal relations and best interests of the Indian child by assisting the child in establishing, developing, and maintaining political, cultural, and social relationships with the child's Indian tribe and Indian community. (WIC, § 16001.9(a)(37).)
- If the child, youth, or nonminor dependent wants a legal name or gender change, has the dependency attorney filed the proper forms with the juvenile court? (Civ Proc, § 1276(a), (e); Health & S Code, § 103430(c); also see the Self-Help Guide to the California Courts for a gender or name change¹² and review your court's local rules.)
- Once the court has granted the legal name or gender change, has the agency provided the child, youth, or nonminor dependent with an amended birth certificate? (WIC, § 391; also see the California Department of Public Health's guidance on amending a California birth record.¹³)

¹² Self-Help Guide to the California Courts, <https://selfhelp.courts.ca.gov/gender-recognition/gender-name-child>.

¹³ California Department of Public Health, "Amending a California Birth Record," www.cdph.ca.gov/Programs/CHSI/Pages/Amending-a-California-Birth-Record.aspx.

11.1 Family Maintenance

- Is continued supervision necessary?
- Has the agency shown by a preponderance of evidence that conditions still exist that would justify initial assumption of jurisdiction under section 300 or that such conditions are likely to occur without continued supervision? (WIC, § 364(c).)
- If termination of jurisdiction is likely to occur, what kind of safety plan would be beneficial?
- What custody and visitation order is in the child's best interest? Does the parenting time schedule provide sufficient specificity for enforcement?

11.2 Permanency

Once the court selects a permanent plan, the court must review the child's case every six months until jurisdiction is terminated. (WIC, §§ 366.3, 16503.)

11.2.1 Adoption/Tribal Customary Adoption

- Does the information provided in the court report sufficiently detail the progress made toward finalizing the adoption, or where relevant tribal customary adoption in the case of an Indian child? (WIC, § 366.3(g).)
- Where does the process to finalize the adoption or tribal customary adoption stand? What are the barriers to finalizing the adoption or tribal customary adoption? Are reasonable efforts being made to finalize the adoption or tribal customary adoption?
- Have efforts been made to establish provisions for postadoption sibling contact? (WIC, § 366.29.)
- For any outstanding requirements that need to be completed for the adoption or tribal customary adoption to finalize, are the responsible parties clear on what needs to be done by what date? If not, has a child and family team meeting been convened to discuss the issues and create an action plan focused on finalizing the adoption or tribal customary adoption?
- If the child has a permanent plan of adoption but is not placed in an adoptive home, what efforts are being made to find the child an adoptive home?
- If three years have passed since termination of parental rights, adoption was ordered as the permanent plan, and adoption is no longer the permanent plan, does the child want to pursue action to reinstate parental rights? (WIC, § 366.26(i)(3).)
- If tribal customary adoption is the permanent plan, what efforts have been made to finalize the tribal customary adoption agreement?

11.2.2 Guardianship

- If the permanent plan is guardianship, has the guardianship been finalized? What are the barriers to finalizing the guardianship? Have reasonable efforts been made to finalize the guardianship?
- Does waiting to terminate jurisdiction until the child has been placed for six consecutive months make the guardianship eligible for Kinship Guardianship Assistance Payment (Kin-GAP) funding?
- If the court ordered guardianship as the permanent plan but maintained jurisdiction and the relative or nonrelated legal guardian objects to termination of jurisdiction, does the child want jurisdiction to be terminated?
- If the relative or nonrelated legal guardian objects to jurisdiction being terminated, what efforts have been made to address the guardian's reasons for maintaining jurisdiction?

11.2.3 Permanent Plans When No One Is Willing to Adopt or Become Legal Guardian

- Are family-finding efforts ongoing?
- Permanent plans:
 - Placement with a fit and willing relative is the appropriate plan if the child is living with an approved relative who is willing and capable of providing permanency but unwilling to become a legal guardian, and removal would be seriously detrimental to the emotional well-being of the child. (WIC, § 366.26(c)(4)(B)(i).)
 - Another planned permanent living arrangement is the appropriate plan for a child 16 years or older for whom there is no other currently available permanent plan option. (WIC, § 366.26(c)(4)(B)(ii) & (iii).)
 - The plan to remain in foster care with a permanent plan of return home, adoption, legal guardianship, or placement with a fit and willing relative is the appropriate permanent plan for a child who is under 16 years old and for whom there is no other currently available permanent plan option. (*Ibid.*)
- Is the child interested in a different permanent plan option, including a return to parent(s), adoption, tribal customary adoption, guardianship, or placement with a fit and willing relative? (WIC, § 366.3(h)(1).)
- If the child's case plan includes making reasonable efforts to return the child to the safe home of a parent, are those efforts being made? If not, what needs to happen to ensure reasonable efforts are being made? (WIC, § 366.3(e)(4).)
- If the child wants to return home, is there a significant likelihood that a second period of reunification services is likely to be successful because of the parent's changed circumstance? (*Ibid.*)
- Has a child who is 10 years of age or older and has been in out-of-home placement for six months or longer been asked to identify individuals other than siblings who are important to the child, and have efforts been made to maintain the child's relationships with those individuals if those relationships are in the child's best interest? (WIC, § 366.3(e)(2), (3).)
- Are there any concerning behavioral issues that can be addressed with additional supports (e.g., frequent changes in placement, delinquent activity, commercial sexual exploitation of children concerns)?

11.3 Transition Age Youth

Foster youth must receive the services needed to prepare them for adulthood. (42 USC §§ 675(1)(D); 20 USC §§ 1414(d)(1)(A)(i)(VIII); Ed Code, § 56345(a)(8); WIC, §§ 366.3(e)(10), 366.31, 391, 10609.3, 11403.2, 16001.9; CCR, tit. 22, § 89372.)

11.4 Minor Dependents

- Did a child who is 12 years of age or older and in a permanent placement receive the opportunity to review the case plan, sign the case plan, and receive a copy of the case plan? (WIC, § 16501.1(g)(13).)
- Requirement beginning at age 14:
 - Does the case plan include a written description of the programs and services that will help the child, consistent with the child's best interests, to prepare for the transition from foster care to successful adulthood? (WIC, § 16501.1(g)(16)(A)(i).)
- Requirements at 16:
 - At the first regularly scheduled postpermanency review hearing after the youth has turned 16 until the last review hearing before the youth turns 18, does the social worker's report verify that the youth has been provided the following information, documents, and services? (WIC, § 391(a).)
 - » Social Security card;
 - » Copy of birth certificate;
 - » Driver's license or identification card;
 - » Assistance in obtaining employment, if applicable;

- » Assistance in applying for, or preparing to apply for, admission to college, a vocational training program, or other educational institution, and in obtaining financial aid, where applicable;
 - » Notification that current or former foster youth are granted preference for student assistant or internship positions with certain state and county agencies (see Gov Code, §§ 18220, 31000.11); and
 - » Notification of financial literacy programs or other available resources provided to help the youth obtain financial literacy skills.
- The case plan must include the transitional independent living plan (TILP). (WIC, § 16501.1(g)(16).)
- For review before 18:
 - At the last regularly scheduled postpermanency review hearing before the youth turns 18, does the social worker's report verify that the youth has been provided the following information, documents, and services? (WIC, § 391(b); Cal Rules of Court, rule 5.707.)
 - » Social Security card;
 - » Certified copy of birth certificate;
 - » Driver's license or identification card;
 - » Medi-Cal benefits identification card
 - » A letter prepared by the county welfare department that includes the youth's name, date of birth, dates during which the youth was a dependent, and a statement that the youth was a foster youth in compliance with state and federal financial aid documentation requirements;
 - » Death certificate of parent(s), if applicable;
 - » Advance health care directive form;
 - » A copy of *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466); and
 - » Notification that the youth may be eligible to receive CalFresh benefits, and where the youth can apply for CalFresh benefits.
 - The youth's transitional independent living case plan (TILCP) must be submitted to the court for the last review hearing held before the child reaches 18. The TILCP must detail the youth's plan to meet eligibility criteria to be a nonminor dependent under Welfare and Institutions Code section 11403(b); the youth's anticipated placement; the youth's alternate plan for housing, education, employment; and a support system should the youth not remain under the juvenile court jurisdiction after turning 18.
- Continuing obligations into adulthood:
 - At the last regularly scheduled postpermanency review hearing before the youth turns 18 and at every subsequent review hearing, does the social worker's report describe efforts to provide the youth with the following information, documents, and services? (WIC, § 391(c).)
 - » Assistance in obtaining employment, if applicable;
 - » Assistance in applying or preparing to apply for admission to college, vocational training, or other educational institution and in obtaining financial aid, where applicable;
 - » Notification that current or former foster youth are granted preference for student assistant or internship positions with certain state and county agencies (see Gov Code, §§ 18220, 31000.11);
 - » Notification of financial literacy programs or other available resources provided to help the youth obtain financial literacy skills;
 - » If applicable, referrals to transitional housing, if available, or assistance in securing other housing;
 - » Assistance in maintaining relationships with individuals who are important to the youth who has been in out-of-home placement for six months or longer, based on the youth's best interests;
 - » 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 either sibling.

11.5 Nonminor Dependents

A nonminor dependent (NMD) is a dependent child or ward, or a nonminor under the dependent jurisdiction of the juvenile court, who is or was under a foster care placement order at the age of 18, is under 21 years of age, and has chosen to participate in extended foster care (EFC). (WIC, § 11400.)

- Is the NMD meeting the criteria for continued eligibility for EFC? (WIC, § 11403(b)(1)–(5).)
 - The nonminor is completing secondary education or a program leading to an equivalent credential.
 - The nonminor is enrolled in an institution that provides postsecondary or vocational education.
 - The nonminor is participating in a program or activity designed to promote or remove barriers to employment.
 - The nonminor is employed for at least 80 hours per month.
 - The nonminor is incapable of doing any of the activities described above because of a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor. The requirement to update the case plan under this section does not apply to nonminor former dependents or wards in receipt of Kin-GAP program or Adoption Assistance Program payments.
- Was the NMD involved in developing their transitional independent living case plan (TILCP)? (WIC, §§ 11400(y), 11403(a), 16501.1(g)(12)(A).)
- Does the TILCP include a written description of the programs and services that will help the nonminor dependent, consistent with their best interests, to prepare for transition from foster care and assist the youth in meeting the eligibility?
- Do the TILCP goals realistically prepare the youth to be independent once dependency supports are removed?
- Through participation in EFC and services provided by the social worker, is the NMD assuming increasing levels of responsibility and independence? (WIC, § 11403(a).)
- If the youth has a CASA, has the youth consented to the CASA remaining on their case?
- If the youth does not have a CASA, would the youth benefit from the appointment of a CASA volunteer?
- Prior to age 21, if the NMD was terminated from the EFC program because of noncompliance, was the NMD provided information when jurisdiction was terminated about how to reenter EFC? (WIC, § 11403(c), (e).)
- At a hearing to terminate jurisdiction for a nonminor or a hearing where the court is considering terminating jurisdiction for a nonminor, has the county welfare department done all of the following? (WIC, § 391(d), (h).)
 - It complied with Welfare and Institutions Code section 391(a) and (b) or made reasonable efforts to locate the youth. (*In re Leon E.* (2022) 74 Cal.App.5th 222.)
 - It ensured the nonminor is present in court, unless the nonminor does not wish to appear in court and elects a telephonic appearance, or documented reasonable efforts to locate the nonminor when the nonminor is not available.
 - It submitted a report describing whether it is in the nonminor's best interests to remain under the court's dependency jurisdiction, which includes a recommended TILCP for the nonminor when the report describes continuing dependency jurisdiction as being in the nonminor's best interest. (*In re Jonathan C.M.* (2023) 91 Cal.App.5th 1039.)
 - If the county welfare department recommends termination of the court's dependency jurisdiction, the welfare department submitted documentation of the reasonable efforts made by the department to provide the nonminor with the assistance needed to meet or maintain eligibility as an NMD.
 - If the nonminor does not want dependency jurisdiction to continue, the report addresses how the nonminor was advised of their options, including the benefits of remaining in foster care, and of their right to reenter foster care and to file a petition to resume dependency jurisdiction before turning 21 years of age.

Relevant Portions of the Foster Youth Bill of Rights (WIC, § 16001.9)

(30) To maintain a bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.

(31) To work and develop job skills at an age-appropriate level, consistent with state law.

(32) For children 14 to 17 years of age, inclusive, to receive a consumer credit report provided to the child by the social worker or probation officer on an annual basis from each of the three major credit reporting agencies, and to receive assistance with interpreting and resolving any inaccuracies.

(34) (A) To receive a notice of court hearings, to attend court hearings, to speak to the judge, to view and receive a copy of the court file, subject to existing federal and state confidentiality laws, and to object to or request the presence of interested persons during court hearings ... (B) When a child is entitled to receive a copy of the court report, case plan, and transition to independent living plan (TILP), those items shall be provided in the child's primary language.

(35) To the confidentiality of all juvenile court records consistent with existing law.

(36) To view and receive a copy of their child welfare records, juvenile court records, and educational records at no cost to the child until the child is 26 years of age, subject to existing federal and state confidentiality laws.

(37) To be involved in the development of their own case plan, including placement decisions, and plan for permanency. This involvement includes, but is not limited to, the development of case plan elements related to placement and gender affirming health care, with consideration of the child's gender identity. If the child is an Indian child, the case plan shall include protecting the essential tribal relations and best interests of the Indian child by assisting the child in establishing, developing, and maintaining political, cultural, and social relationships with the child's Indian tribe and Indian community.

(38) To review the child's own case plan and plan for permanent placement if the child is 10 years of age or older, and to receive information about their out-of-home placement and case plan, including being told of changes to the plan.

- If the child did not have legal residency when they were adjudicated a dependent, did the county's child placing agency notify the attorney for the dependent minor or NMD? (WIC, § 16010.6(f).)
- Is the county making best efforts to provide undocumented dependents and NMDs under the juvenile court's jurisdiction with access to immigration legal services? (WIC, § 13310.)
- If the court has found that family reunification is no longer an option with one or both parents and that it is not in the child's best interest to return to their home country, has immigration counsel or specialized assistance been provided to the dependent minor or NMD to complete an application for special immigrant juvenile status or to seek other immigration options? (8 USC § 1101(a)(27)(J); 8 CFR § 204.11.)
- If the child or nonminor dependent is receiving immigration services, are the child's supports (e.g., attorney, social worker, CASA) and the court monitoring the process for progress?
- Also see All County Letter 22-54, *Immigration Legal Services for Undocumented Immigrant Minor and Nonminor Dependents in Foster Care*.

Achievement/Participation

- Should the youth be referred to the regional center if they are younger than school age?
- What grade level should the child be in? If needed, is there a specific plan to assist the child with reaching this grade level? (WIC, § 16010(a).)
- What are the child's grades?
- What educational services (e.g., tutoring, summer school, other supplemental services) is the child receiving? (Ed Code, §§ 48070.5, 48850, 48853(g).)
- Has the new school district accepted for full or partial credit all coursework satisfactorily completed at the prior school placement? (Ed Code, § 48645.5.)
- Is the child limited in their ability to speak English? If yes, is the child receiving appropriate programs to address their English language needs? (20 USC § 1703(f); Ed Code, § 300 et seq.)
- Does the child's background suggest that the child might qualify as a migrant student? If yes, has the child been assessed to determine migrancy, and, if identified as a migrant, does the child have access to appropriate programs available for migrant students? (20 USC § 6399(2); 34 CFR § 200.81(d); Ed Code, §§ 54441, 54442(a).)
- What is the child's experience in school (e.g., friends, social environment, interests)?
- Is the child experiencing isolation, rejection, or harassment at school? (Explore the reasons—for example, race or ethnicity, sexual orientation, or gender identity.)
- Is the child attending a school that has been identified as a program improvement school? If yes, is the student receiving supplemental services or has the child been given a school choice option? (20 USC § 6316.)
- What is the child's attendance record this year? What are the reasons for any absences or trancies? Has the child been wrongfully penalized for any absences related to change of placement or court appearances? (Ed Code, § 49069.5(g), (h).)

High School Students

- Has the youth made progress to obtain any of the following?
 - High school diploma or General Educational Development (GED) credential;
 - High school certificate of completion; or
 - Passing of high school exit exam. (Ed Code, § 60851.)
- If the child is not making sufficient progress toward passing the high school exit exam, is supplemental instruction designed to help the student pass being provided? (Ed Code, § 60851(f).)
- How many more credits are needed for graduation, and does the school district have an alternative means for students to earn the credits needed to graduate? (Ed Code, § 51225.3(b).)
- What are the child's plans for postsecondary education or vocational school? (WIC, § 16001.9(a)(28).)
- What assistance is the child receiving to achieve these goals and to apply for financial aid?
- Has the social worker or probation officer provided the child with information regarding educational options available, including required coursework for vocational and postsecondary educational programs, and financial aid information for postsecondary education? (WIC, § 16001.9(a)(24).)

Children in Need of Additional Education and Developmental Supportive Services

The state must have in effect policies and procedures to ensure that all children with disabilities are identified, located, and evaluated and that a practical method is developed and implemented to determine which children are currently receiving needed disability support and related services. (20 USC § 1412(a)(3); 34 CFR § 300.111 (2006); Gov Code, § 95022; Ed Code, § 56300.) The juvenile court may be called upon to enforce these rights, services, policies, and procedures or to ensure the child's education and developmental rights holder and other members of the child's life are obtaining the additional services for the child.

A party, counsel, CASA, or the court on its own motion may seek to enforce an agency's legal obligation to provide services to a dependent minor or nonminor dependent by joining the agency to the juvenile court dependency case. (WIC, § 362; Cal Rules of Court, rule 5.575; *Notice of Hearing on Joinder—Juvenile* (form JV-540).)

For the purposes of joinder, Welfare and Institutions Code section 362(b)(3) defines "agency" as "any governmental agency or any private service provider or individual that receives federal, state, or local governmental funding or reimbursement for providing services directly to a dependent child or nonminor dependent."

- Is the child eligible for or receiving services or accommodations for a physical, mental, or learning disability as required by the Americans with Disabilities Act (ADA), the Individuals with Disabilities Education Act (IDEA), or section 504 of the Rehabilitation Act of 1973? (20 USC § 1400; Ed Code, § 56000; 34 CFR § 104.3(j) (2000).)
 - If yes, are the services appropriate and meeting the child's needs?
- If the child is under three years of age and is developmentally delayed or meets eligibility criteria for being considered "at risk of developmental delay," has the child been referred to the early intervention program to determine eligibility for an Individualized Family Service Plan (IFSP)? (20 USC § 1436; Ed Code, §§ 56425–56426.9; Gov Code, § 95000 et seq.; CCR, tit. 5, § 3031; CCR, tit. 17, §§ 52020, 52022; see 34 CFR § 300.25 (2006) and Gov Code, § 95014 for definition of "infant" and "toddler.")
 - If yes, has a written IFSP been developed in compliance with Title 20, United States Code section 1436(d)? (20 USC § 1436; Ed Code, § 56426.8.)
- If the child is between three and five years old and has not met these developmental markers, has the child been referred to the district to be assessed for disability support services? (Ed Code, § 56001.)
- If the child is receiving services, are they appropriate? (Ed Code, § 56001.)
- If the youth is under 22 years old and has not graduated from high school, has a learning deficit or other disability been suspected or identified?
 - If yes, has the youth been referred to the district for a disability support assessment?
- The Secretary of the Interior is responsible for providing and coordinating disability support and related services to children ages 5 through 21 with disabilities on reservations who are enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. (20 USC § 1411(h); 34 CFR §§ 300.713(a), (b) (2006).)
- If the child has been assessed and found eligible for disability support services, does the child have a current IEP? (20 USC § 1414(a); Ed Code, §§ 56043(j), 56381.)
- What is the child's qualifying disability?
- Do the IEP goals correspond to the areas of need mentioned in the assessments?
- Are the goals specific enough that the parties can easily recognize when they have been attained?
- Does the IEP include an appropriate setting or classroom to meet the child's needs?
- When was the most recent IEP made?
- Who was present at the assessment?
- Was the educational rights holder an effective representative?
- Are the child's needs reviewed annually?

- Is the public agency ensuring the child has the supplementary aids and services determined necessary by the child's IEP team for the child to participate in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of that child? (20 USC § 1412(a)(5); 34 CFR § 300.117 (2006); Ed Code, §§ 56033.5, 56345.)
- Are any services necessary to help the child benefit from the disability support program (e.g., transportation, psychological services, physical, speech, and occupational therapy)? (20 USC § 1401(26); 34 CFR §§ 300.34 (2006), 104.3(j) (2000); Ed Code, § 56363; Gov Code, §§ 7573, 7575.) Note: *The Asking the Right Questions* judicial checklist¹⁴ provides additional citations and details specific to California law.
- Does the child have a developmental disability (e.g., intellectual disability, autistic spectrum disorder, cerebral palsy, epilepsy)? (WIC, § 4512(a).)
 - If yes, is the child receiving appropriate developmental services from the regional center? (WIC, § 4512(b).)
 - If no, and if the child is suspected of having a developmental disability, has a referral been made? (See Gov Code, §§ 95014, 95016; WIC, § 4642.)

School Discipline

- Has the child been expelled or suspended or experienced any other school discipline? (Ed Code, § 48900 et seq.)
- The rights of dependent children are protected by requiring the school to notify the court-appointed child's attorney of any disciplinary proceeding. "Disciplinary proceeding" includes expulsions, involuntary school transfers, and suspensions. (Ed Code, §§ 48853.5, 48911, 48911.1, 48918.1.)
- What was the reason for the child's most recent exclusion from school? (Ed Code, §§ 48900, 48900.2–48900.4, 48900.7.)
- How are these concerns being addressed? Have alternatives to suspension failed to correct the student's behavior? (Ed Code, §§ 48900.5, 48900.6, 48916(b).)
- Was the suspension more than five consecutive days, or has the child been suspended for more than 20 days of the school year? (Ed Code, §§ 48903(a), 48911(a).) Note: Longer exclusions generally are not permissible.
- Have proper due process procedures been followed for the exclusion? (20 USC § 1415; 34 CFR §§ 300.504, 300.530; Ed Code, §§ 48900 et seq., 48915.5.)
- Did the school or LEA have a basis to know that the child had a disability before it disciplined the child? (20 USC § 1415(k)(5); 34 CFR § 300.534; Ed Code, § 48915.5.)
- Did the educational rights holder and person(s) entitled to notice receive a copy of the disciplinary proceeding notice? (Ed Code, §§ 48853.5, 48911, 48911.1, 48918(b), 48918.1.)
- Have the child's rights to a due process hearing been waived? If yes, who agreed to the waiver, was it in writing, and what were the terms of the waiver?
- Has the child been provided an educational placement during the period of the expulsion? Does the child have a rehabilitation plan and a set date when the child can apply for readmission to a regular school? (Ed Code, § 48916(b).)
- If the child is eligible for disability support services and the child's behavior appears to interfere with achieving the goals and objectives of the IEP:
 - Has an appropriate behavioral intervention plan been implemented? (Ed Code, § 48916; CCR, tit. 5, § 3052.)
 - Was an IEP meeting held before a change in placement was made owing to the child's behavior (including suspension totaling more than 10 days in a school year)? (34 CFR § 300.530(e).)
 - Was a manifestation determination IEP meeting held before expulsion proceedings were initiated? (34 CFR § 300.530(e); Ed Code, § 48915.5.)

¹⁴ *Asking the Right Questions*, www.ncjfcj.org/publications/asking-the-right-questions-a-judicial-checklist-to-ensure-that-the-educational-needs-of-children-and-youth-in-foster-care-are-being-addressed/.

Below are the Department of Health Care Services network adequacy standards for timeliness requirements for Medicaid and Children's Health Insurance Program managed care.¹⁵

Appointment Type	Standard
Urgent care ¹⁶ appointment for services that do not require prior authorization	Within 48 hours of the request for appointment, except as provided in CCR, tit. 28, § 1300.67.2.2(c)(5)(G)
Urgent care appointments for services that require prior authorization	Within 96 hours of the request for appointment, except as provided in CCR, tit. 28, § 1300.67.2.2(c)(5)(G)
Nonurgent appointments with specialist physicians (i.e., psychiatrists)	Within 15 business days of the request for appointment, except as provided in CCR, tit. 28, § 1300.67.2.2(c)(5)(G) and (H)
Primary care and nonurgent appointments with a nonphysician mental health care provider	Within 10 business days of the request for appointment, except as provided in CCR, tit. 28, § 1300.67.2.2(c)(5)(G) and (H)
Nonurgent appointments for ancillary services for the diagnosis or treatment of injury, illness, or other health condition	Within 15 business days of the request for appointment, except as provided in CCR, tit. 28, § 1300.67.2.2(c)(5)(G) and (H)

See the Department of Health Care Services' Behavioral Health Information Notice No. 20-012.¹⁷

¹⁵ *Medicaid Managed Care Final Rule: Network Adequacy Standards*, www.dhcs.ca.gov/formsandpubs/Documents/FinalRuleNAStandards3-26-18.pdf.

¹⁶ "Urgent care" means health care for a beneficiary whose "condition is such that the enrollee faces an imminent and serious threat to his or her health, including, but not limited to, the potential loss of life, limb, or other major bodily function, or the normal timeframe for [a nonurgent appointment] ... would be detrimental to the enrollee's life or health or could jeopardize the enrollee's ability to regain maximum function." (Health & S Code, § 1367.01(h)(2); see also CCR, tit. 28, § 1300.67.2.2(b)(7).)

¹⁷ Department of Health Care Services' Behavioral Health Information Notice No. 20-012, www.dhcs.ca.gov/Documents/Behavioral-Health-Information-Notice-20-012-2020-NA-Certification-4-3-20.pdf.