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PURPOSE AND OVERVIEW

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I. OVERVIEW

The purpose of the Aid to Families with Dependent Children-Foster Care Program (AFDC-FC) is to provide financial assistance for those children who have been placed in out-of-home care.

Child Welfare laws give the Children & Family Services Bureau of the Employment & Human Services Department and/or the Juvenile Probation Department (JPD) the legal authority to place children and/or provide services or benefits in the following circumstances:

- The child was placed pursuant to a court order which remains in effect,
- The child is living with a legal guardian, regardless of whether the guardianship order is temporary or permanent,
- The child was placed by a parent or guardian under a voluntary placement agreement, or
- The child has been relinquished for adoption, or a petition to sever parental rights has been granted.

The Foster Care Units are responsible for issuing the out-of-home care payments. Out-of-home care payments are made for children who are placed by CFS, JPD, or Voluntary Placement. Foster Care Eligibility Workers (FC EWs) are responsible for determining payment eligibility and funding source eligibility.

This Manual Section contains information regarding Foster Care funding sources, authority for placement, Adoptions and Safe Families Act (ASFA) regulations, including judicial documentation, establishing petition dates and linkage, changes to jurisdiction, licensing requirements, and the State Ombudsman.

II. POLICY

A. Funding Sources

When a child is placed in out-of-home care, it is the responsibility of the FC EW to determine eligibility to State or Federal funding sources. If the case is not eligible to Federal or State funds, the FC EW will work with the Social Worker (SW) to find another source of funding. All County dollars are a last resort and all other means to determine a case eligible to Federal or State funds must be exhausted prior to completing and requesting approval for use of all county funds.



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1. Importance of Federal Eligibility

Federal eligibility is important for the following reasons:

- a. It reduces the county share of the total cost of Foster Care
- b. Increases the County’s penetration rate (% of federally funded cases in the total Foster Care caseload), and
- c. It increases the County’s allocation for administrative and case management activities on time studies that, in turn, further reduces the county share.

2. Eligibility Rate

The Eligibility Rate is the percentage of Foster Care maintenance cases that are federally eligible. It influences the amount of federal dollars used to offset CFS Administration and JPD Administration costs which assists with funding positions and equipment to administer County programs.

3. Cost of Sharing Ratios

The table below displays the cost sharing ratios with federal (Aid Code 42) and State (Aid Code 40) Foster Care cases:

Sharing Ratios	Federal	EA	“Non-Federal”	All County
Federal share	50%	0%	0%	0%
State share	20%	70%	60%	0%
County share	30%	30%	40%	100%

4. Common Eligibility Criteria

Each of the funding sources has some of the same eligibility criteria. Examples of common eligibility requirements that must be met include:

- Age requirements
- Property
- Residence



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- Citizenship/Alienage
- Deprivation
- Social Security Number
- Income

Note: Income received by a FC child’s parent shall not be considered available when determining the FC payment unless any portion of the income received is made available to meet the child’s needs.

B. Authority for Placement

The *Authority for Placement* is an eligibility requirement for Foster Care and without it there is no eligibility to FC. Authority for Placement is the legal basis (e.g. a court order, voluntary placement agreement, legal guardianship, etc.) under which a child is residing in a foster care placement. In order to qualify for benefits the child in placement must have been:

- Declared a Dependent Child of the Court under Welfare & Institution Code section 300, or
- Declared a Ward of the court under Welfare & Institution Code section 600, or
- Put into placement as a result of a Voluntary Placement Agreement between the parent and CFS, or
- Be living with a non-related Legal Guardian (temporary or permanent guardianship), or
- Relinquished for adoption or a petition to terminate parental rights has been granted.

C. Removal Process

The table below provides an overview of the removal process:

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STAGE	WHO	ACTION
1)	Social Worker (SW) or Probation Officer (PO)	<ul style="list-style-type: none"> Petitions the court to make a preliminary investigation of the allegations of the situation the child was in at the point of the petition
2)	The Court	<ul style="list-style-type: none"> Makes a decision permitting physical custody of a child pending a jurisdictional hearing (detention hearing) and Determines jurisdiction/disposition which declare the child a dependent or ward of the court, and designates where the child is to be placed

1. CFS and JPD

When children are placed in out-of-home care by Children & Family Services (CFS) or by the Juvenile Probation Department (JPD) the following applies:

If the child is placed by...	Then the child is a...
CFS	“ Dependent ” of the court (W & I Code 300)
JPD	“ Ward ” of the court (W & I Code 602)

Note: There are situations where a child may have been a dependent and, upon breaking the law, the court will change the child’s status from a Dependent (W&I 300) to a Ward (W&I 602). The 602 status takes precedence to the 300 status.

D. Adoptions and Safe Families Act (ASFA) Provisions for AFDC-FC Eligibility

This section contains information on the ASFA regulation requirement for FC EWs and how to determine the petition date as it relates to establishing AFDC-FC linkage. ASFA regulations require that FC EWs verify certain court order requirements, which include:

- Court Order Removal Findings
- Ongoing Court Order Findings
- Judicial Documentation,



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- Placement Agreements, and
- Licensing Requirements

1. Court Order Requirements

The following court order requirements must be verified by the FC EW prior to the approval of or continuance of AFDC-FC benefits. This is completed by viewing the appropriate court order documents received from the SW or JPD.

- a. Court Order Removal Findings, commonly known as the “Three Requisite Findings”, which include:
- Contrary to the Welfare,
 - Placement and Care, and
 - Reasonable Efforts.

The following chart outlines the process for verifying court order removal findings:

Court Order Removal Findings	If there is...	Then...
Contrary to the Welfare	Federal Participation,	The FC EW must verify that the finding is made in the first court order which removes the child from his or her home (usually made at the Detention Hearing)
	State Participation	The FC EW must verify that the finding is made prior to the approval of State AFDC-FC (does not need to be made in the first court order removing the child from his or her home).
	No finding made at the first court order hearing (Applies to Federal cases only)	The child is ineligible for Federal AFDC-FC funding for the duration of that stay (episode) in Foster Care. (State AFDC-FC or All County funding may apply.)
Placement and Care	Federal or State participation (CFS)	The FC EW must verify that the court made a finding that “placement and care” is vested with either the county welfare or probation department.



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	Placement and Care vested with the Probation Department	A written agreement must be in effect between the county welfare and probation departments.
	No finding made in the court order	The FC EW must not pay Federal or State AFDC-FC benefits.
Reasonable Efforts	Federal participation	The FC EW must verify the finding was made by the court no later than 60 days from the date the child is removed from the home.
	State participation	The FC EW must verify that the finding is made prior to the approval of State AFDC-FC (does not need to be made within 60 days from the date of removal).
	Evidence that the county obtains a finding from a judge that reasonable efforts were NOT necessary.	The FC EW must verify that one of the following reasons exists: <ul style="list-style-type: none"> • The parent has subjected the child to aggravated circumstances (i.e., abandonment, torture, chronic abuse, or sexual abuse). • The parent has been convicted of aiding or abetting, attempting, conspiring, or soliciting to commit such a murder or voluntary manslaughter. • The parent has been convicted of a felony assault that results in serious bodily injury to the child or another child of the parent. • The parental rights of the parent(s) have been involuntarily terminated to a sibling of the child in foster care. <p>NOTE: The finding(s) from the judge in court documents, minute orders, or court transcripts.</p>

2. Court Order Removal Findings Defined

The following written examples are used by the State to define the language necessary for the three “findings” under the ASFA regulations. These findings must be noted in either the court documents, court transcripts, or minute orders.

a. Contrary to the Welfare:

Statements for “Contrary to the Welfare” include, but are not limited, to the following:

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- “Continuance in the home is contrary to the welfare of the minor,” or
- “The welfare of the minor requires that custody be taken from the parent(s),” or
- “There is substantial danger to the welfare of the minor without removing the minor.”

b. Placement and Care

Statements for “Placement and Care” include, but are not limited, to the following:

- “Temporary placement and care is vested with the county,” or
- “Care, custody, and control is vested with the county,” or
- “Placement and care is vested with either the welfare or probation department.”

c. Reasonable Efforts

Statements for “Reasonable Efforts” include, but are not limited, to the following:

- “Reasonable efforts to prevent or eliminate the need for removal have been made by the county,” or
- “By clear and convincing evidence, reasonable services have been offered and provided to the parents, which were designed to aid them to overcome the problems which led to the initial removal of the children,” or
- “Placement and care is vested with either the welfare or probation department.”

E. Judicial Documentation



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The FC EW must ensure that the appropriate language exists in the court order which indicates the facts that led to the “court order findings” prior to granting or continuing AFDC-FC benefits. Judicial determinations regarding the court order findings, including judicial determinations that reasonable efforts are not required, are made on a case-by-case basis and are explicitly documented and stated in the court order.

NUNC PRO TUNC Orders (Federal AFDC-FC Only)

NUNC PRO TUNC is a Latin term meaning “now for then.” It is used to refer to changing the date of an order, judgement, or filing of a document, back to an earlier date. These types of orders are **not** acceptable as verification in support of evidence to establish eligibility to Foster Care benefits.

1. Court Order/Hearing Documents Retention

All Court Orders and Hearings documents that contain pertinent information related to the eligibility of the case must be retained in the eligibility case file.

The following chart identifies court proceedings and the associated documents that are completed. Documents associated with the hearings listed below must be reviewed by FC EW as they may contain information critical to determining eligibility. The documents associated to the hearings listed below must be reviewed upon receipt:

Type of Documents/Hearings	Purpose
Petition	<ul style="list-style-type: none"> • A request that the child be legally removed from the home of the parent or guardian. • A legal document that is required to begin court proceedings to intervene and establish dependency.
Detention Hearing	<ul style="list-style-type: none"> • Also known as the “Initial Petition Hearing” is held for a child who has been placed in temporary custody and for whom a Juvenile Dependency petition has been filed. • Takes place the judicial day following the filing of the Petition. • At this hearing the Court makes a finding as to whether or not there is enough evidence to further detain the child. • The <i>Detention Order</i> is issued at this time if the judge orders that the child is to remain in FC; the three



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	<p>requisite findings are usually made at this hearing.</p> <ul style="list-style-type: none"> • Considered the date of legal removal and the date that is to be used in CalWIN for the “Removed from Home” date.
Jurisdiction/Disposition Hearing	<ul style="list-style-type: none"> • Is a hearing that makes the finding that the child is to be removed from the home on a non-temporary basis. • Is a bifurcated hearing; meaning that it is one hearing divided into two parts: jurisdiction and disposition. • It is during the jurisdiction part of the hearing that the allegations in the petition are addressed. • If the petition is found to be true, the court has a legal basis for taking jurisdiction over the child to protect the child’s well-being. • Dispositional and/or Jurisdictional Order will be issued declaring the child a dependent or ward of the court. • Order will also designate to whom the child is to be released.
<p>Permanency Planning Hearing</p> <p>*Reasonable efforts to finalize the permanency plan may include:</p> <ul style="list-style-type: none"> • Reunifications, • Adoption, • Legal Guardianship, • Placement with a “fit and willing” relative, or • Placement in another planned permanent living arrangement. 	<ul style="list-style-type: none"> • Hearing for any dependent or ward who has been removed from the custody of a parent or guardian and not returned at a previous review hearing. • Purpose of the hearing is to establish and maintain a plan for the child’s permanent living arrangement. • Must be held within 12 months of the date the youth entered into Foster Care and periodically thereafter, but no less than once every 12 months while the youth remains in placement. For more information on the date child entered FC see Section E. 2. below. • When no reunification services are offered to the parents or guardians, the first permanency planning hearing must occur within 30 days of disposition.
Status Review Hearing	<ul style="list-style-type: none"> • Made every 6 months, after each permanency planning hearing, to ensure there is a continuing need for the child to remain in out-of-home care or continue to have court supervision.



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Relinquishment/Termination of Parental Rights	<ul style="list-style-type: none"> Ends the legal relationship between the parent and child, either voluntarily or by court order. Relinquishment/Termination allows the child to be freed for adoption.
Guardianship Hearing	<ul style="list-style-type: none"> Occurs when the court grants legal custody to someone other than the parent. Guardianship may be granted with or without dependency.
Dismissal Hearing	<ul style="list-style-type: none"> Occurs when the child is no longer a dependent or ward of the court. Dismissal may occur when the child is placed with a guardian, after the child has been returned to the parent or guardian from whom removed, after the child turns 21, or at the time of adoption.

2. Determining the Date the Child/Non Minor Dependent (NMD) Entered Foster Care

This date is defined as the earlier of the following two dates:

- The date of the first judicial finding that the child/NMD has been subjected to abuse or neglect. The Court Order will have language to the effect of “allegations of abuse have been sustained”. Usually, this finding is made at the Jurisdictional Hearing or Dispositional Hearing.

OR

- 60 days from the date the child/NMD was removed from the home.

F. Establishing Petition Date and Linkage

1. Date of Petition

The date of petition is critical when trying to make the “would have been eligible” determination for Federal FC as this is a one-time determination. Subsequent changes in the child’s placement or circumstances do not affect the initial linkage



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determination.

2. Determining Date of Petition to establish AFDC Linkage

The FC EW will use the date of the original petition filed that removes the child from his/her parents to determine which petition date to use while attempting to establish AFDC linkage **unless**:

- An open dependency order exists and the child was returned home on a non-temporary basis however must now be removed again.

The table below illustrates this rule:

If...	Then...	And...
Prior dependency was dismissed when the child returned home,	A “New” petition that recommends removal from parental custody is required,	Linkage is based on the new petition that recommends the removal from parental custody.
Prior dependency was not dismissed and child was returned home for a trial or extended visit,	A petition is not required,	Linkage is based on the original petition that recommended the removal from parental custody.
Prior dependency was not dismissed and child was returned home on a non-temporary basis,	A “Supplemental” or “Subsequent/Supplemental” (example: 387 Box marked on court order) petition that recommends removal from parental custody is required.	Linkage is made using the “Supplemental” or “Subsequent/Supplemental” petition date.

3. When a Child is Removed From a Legal Guardian

In situations when a child is residing with the legal guardian and that guardianship is disrupted, the Social Worker (SW) or Probation Officer (PO) will file a petition to remove the child from the home. When this occurs, the FC EW will use the table below to determine which petition date should be used in order to determine whether there is AFDC linkage:

If the child...	And was removed from the legal guardian, and	Then use the...
Is a court dependent	Is moved to another out-of-home placement,	Original petition that removed the child from the parents.



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Is no longer a court dependent	The original petition has been reinstated and the underlying dependency has resumed,	Original petition that removed the child from the parents if this petition was reinstated by the judge. Otherwise, use new petition.
Is no longer a court dependent	The original petition and dependency are not reinstated	Petition that removed the child from legal guardian
Was never a dependent	Is placed in out-of-home care,	Petition that removes the child from the legal guardian

G. Changes to Jurisdiction

Dependency can begin with a child being a dependent under CFS jurisdiction and then transferring to a ward under JPD jurisdiction when the child commits a crime. The dependency of the child is continuous.

To determine whether AFDC linkage can be established in this situation, the FC EW should use the original CFS petition that removed the child from the parents. Linkage is a one-time determination that continues until dependency is dismissed and the child is returned to the home on a non-temporary basis. However changes in the child’s placement or circumstances may affect that determination.

Example:

CFS files a petition and declares the child a dependent under CFS jurisdiction. The child then commits a crime. JPD files a petition and the child becomes a ward under the jurisdiction of JPD 602. The CFS petition is then dismissed.

The child serves his/her sentence but is under 18 years old and not able to be released to a parent. CFS files a new petition and the child returns to CFS dependency. JPD in turn dismisses their petition. Dependency has been continuous since being removed from parent at the very beginning. The current CFS court order should have wording “the original conditions that led to minor’s dependency are still in effect.”

1. JPD Dependency to CFS

Dependency can begin when the child commits a crime and becomes a ward under the jurisdiction of JPD. If the child cannot return home after serving his/her time and they are under 18 years old, CFS will file a petition making the child a dependent under CFS jurisdiction. The child’s dependency is continuous.



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To determine whether AFDC linkage can be established in this situation, the FC EW should use the original JPD petition that removed the child from the parents. Linkage is a one-time determination that continues until dependency is dismissed and the child is returned to the home on a non-temporary basis. Changes in the child's placement or circumstances may affect that determination. The current JPD court order should have the wording "the original conditions that led to minor's dependency are still in effect."

H. Licensing and Home Approval Documentation Requirements

The FC EW must verify that children are placed with an eligible provider at all times during the child's stay in Foster Care. Children must be placed in one of the following:

- Licensed Foster Home,
- Relative,
- Non-Related Extended Family Member,
- Group Home,
- Foster Family Agency,
- Vendorized Regional Center Home,
- Small Family Home,
- Transitional Housing Placements,
- Home exempt from licensure,

Relative/Non-Relative Extended Family Members (NREFM) and Legal Guardians are exempt from licensing however must meet the federal guidelines as an "Approved Home". The SOC 815, "Approval of Family Caregiver Home", is the form used to verify that the home has been approved for child placement and is generally approved for a one year period. FC EWs are required to ensure all cases in these placement categories have a current SOC 815 form on file.

1. Family Homes

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Family homes must be licensed by the appropriate community care licensing agency, i.e. the County Welfare Department or California Department of Social Services. If the home is not licensed, it must be one of the following:

- Exempt from licensure as the home of a Relative or NREFM and the SW has determined that the home is suited to the child's needs, or

Reminder:

When the Foster Parents move, the new residence must be licensed or certified license pending.

2. Group Homes

Group homes are structured residential facilities that must be licensed by the Community Care Licensing (CCL) Division of the California Department of Social Services (CDSS). The CCL licenses group homes and investigates all complaints concerning programs and their employees.

The SW must certify that placement in a group home is necessary to meet the child's needs.

To be eligible to AFDC-FC, a child placed in a group home must be placed in a nonprofit group home. CDSS will not issue a rate unless the group home is a nonprofit.

I. State Ombudsman Program

1. Overview

The Foster Care Ombudsman program is an independent bureau within the California Department of Social Services. Its purpose is to provide children who are placed in Foster Care with the means to resolve issues related to their care, placement and services.

2. Ombudsman Duties

- Acts as an advocate for children in Foster Care,



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- Acts as a mediator who will coordinate with others involved in the care of the child in foster care,
- Works to insure that quality care is provided in all out-of-home placements,
- Acts as an independent forum for the investigation and resolution of complaints made by or on behalf of children placed in foster care and makes appropriate referrals, and
- Provides children and youth with information of their rights when placed in foster care.

3. Ombudsman Authority

The Ombudsman is a mandated reporter and is authorized to:

- Conduct an investigation when deemed necessary,
- Access any record of a state or county agency that is necessary to carry out their responsibilities (confidentiality rules do not apply),
- Meet and communicate with any foster child in his or her placement or elsewhere,
- Attempt to resolve the complaint informally, and
- Submit a written plan to the relevant agency recommending a course of action to resolve the complaint.

4. Limits to Ombudsman’s Authority

The Ombudsman and staff are not authorized to:

- Challenge Juvenile Court decisions, or
- Change a case plan.

Note:

The Ombudsman may make recommendations for changes in an attempt to

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resolve a complaint.

5. FC EWs shall cooperate fully with the Office of the Ombudsman and:

- Respond quickly, returning telephone calls to the Ombudsman within 24 hours,
- Provide access to any record or information necessary to carry out their investigation, including court reports, case narratives or other case documentation, and
- Not disclose any client-attorney-privileged documentation, i.e., any case-related communication between County Counsel and the Department.

Ombudsman Address and Contact Information:

Foster Care Ombudsman
744 P Street, M.S. 9-025
Sacramento, CA 95814
Phone Number: 1-877-846-1602
Fax Number: 1-916-651-6568
<http://www.fosteryouthhelp.ca.gov/OMBprog.html>

J. Service Requirements

For both Federal and State AFDC-FC benefits the FC EW must verify and document, via the SOC 158A at intake and redetermination, that service requirements have been met. These service requirements include:

- Pre-placement preventative services (L2 of SOC 158A)
- Case plan, which has been updated every 6 months (L1 of SOC 158A)
- Date of Last in-person Contact with Child/Visits by Social Worker/Probation Officer (L4 of SOC 158A)
- Periodic Reviews and Permanency Planning Hearings (L5 or L6 of SOC 158A)

CONTACT PERSON: Unit Supervisors and above may contact the Program Analyst with questions about this Department Manual section.

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