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I. GENERAL

A Legal Guardian is an individual appointed permanent or temporary guardianship of a person and estate of a child by a California court pursuant to Probate Code §1514, or Welfare and Institutions Code §360 or §366.25(e). To be eligible to AFDC-FC, the guardian must be a non-relative.

II. LEGAL GUARDIAN PLACEMENTS**A. Federal AFDC-FC Eligibility**

Federal AFDC-FC may be claimed for an otherwise eligible child placed with a related or non-related legal guardian **ONLY WHEN A DEPENDENCY ORDER IS IN EFFECT**. This is because the dependency order of the juvenile court always takes precedence over the legal guardianship order.

1. Dependency Order

The **DEPENDENCY ORDER MUST STATE CARE, CUSTODY AND CONTROL** of the minor is vested with our department. A dependency order stating 'supervision' is insufficient for AFDC-FC eligibility purposes.

2. Related Legal Guardians

Children living with related legal guardians, when the dependency order is dismissed, **LOSE BOTH FEDERAL AND STATE** eligibility for the AFDC-FC program. When this happens, relatives may be entitled to receive CalWORKs or KinGAP. An intra-program status change must be initiated to ensure that no break-in-aid occurs.

NOTE: Federally eligible children placed with non-relatives may be eligible to Fictive KinGAP

3. Agency-Relative Guardianship Disclosure, SOC 369

It is the Social Worker's responsibility to have the relative complete the SOC 369 advising them that the AFDC-FC payment amount they are entitled to as relatives may change to a CalWORKs payment, which is usually smaller, if they become legal guardians and the dependency for the child in their care is dismissed.



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4. Non-Related Legal Guardians

Children living with Non-Related Legal Guardians (NRLGs) lose Federal eligibility when the dependency order is dismissed. If otherwise eligible, payment can be made from the State AFDC-FC program. An Aid Code change must be done.

When dependency is dismissed and the NRLG loses federal eligibility but benefits are to continue under the State AFDC-FC program, it is considered an intra-program status change. In order to remain eligible for benefits State AFDC-FC program requirements must be met.

5. Non-Related Legal Guardians Without Dependency

Non-related legal guardians, where the child is not a dependent of the court, have the same interview requirements as parents, and a SAWS 2 is required at initial application.

Non-dependent children turning 18 years old whose guardianship was established in probate court are treated the same as dependent children. As long as all the other requirements are met, non-dependent 18 year old foster care children may continue to receive FC based on their high school graduation date.

6. Service

Whenever dependency continues to be in effect, all service requirements must be met by the legal guardian including the non-related legal guardian. If the dependency ends, the EW shall request verification that the home continues to be an approved placement from the Social Worker every 6 months.

B. State AFDC-FC

A State AFDC-FC program payment may only be made for an otherwise eligible child who is placed with a non-related legal guardian. Children placed with relatives are not eligible for State AFDC-FC.

1. Dependency Requirement

A child does not need to be a dependent of the court to receive State AFDC-FC.



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If a dependency is maintained, the legal authority for placement is the dependency, and case eligibility must be built around the dependency not the guardianship.

2. Temporary Guardianship

The *Timmons v. McMahon* court decision ruled that ‘All non-dependent children living with non-related legal guardians, regardless of whether the guardianship order is temporary or permanent, who meet all eligibility requirements for the State AFDC-FC Program may receive funding under this program’.

3. Service Requirement

Non-related legal guardians MUST cooperate with the Social Worker to the extent required, or State AFDC-FC shall not be paid.

C. Guardianship Orders From Other States—*Ramirez V. Lighthourne* Court Case

The court order issued in the ‘*Ramirez v. Lighthourne*’ court case applies to children residing in California with a Non-Related Legal Guardian (NRLG) whose guardianship determination was issued by a court of another state and subsequently registered in California. The NRLG pursuant to Family Code sections 3445 and 3446. As of the date of registration, such a guardianship is enforceable in the same manner as a guardianship issued by a California court under the Probate Code or Welfare and Institutions Code.

NRLGs with guardianship orders registered in a California court are eligible for Aid To Families With Dependent Children-Foster Care (AFDC-FC) benefits on behalf of the child as of the date of registration or the date of application, whichever is later and assuming all other eligibility conditions are met.

Social Workers and Foster Care Eligibility Workers shall inform applicants for AFDC-FC who have a guardianship determination issued by a court of another state that they may be eligible for AFDC-FC either by obtaining a guardianship order from a California court or by registering their guardianship order issued by a court of another state in a California court.

Guardians with out-of-state Guardianship Court Orders wishing to register their order in California should be referred to the Contra Costa Superior Court for instructions on how to initiate the process.



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D. Intake

Refer to 'Payment for Legal Guardians', page 4, #5 for procedures on payments to a Temporary Legal Guardian.

A non-related legal guardian, without any dependency orders, has the same interview and cooperation requirements as a parent. Intake packets include the following forms:

- a. Letters and Orders of Guardianship
- b. SAWS 1, Initial Application for Aid
- c. SAWS 2A, Rights, Responsibilities and Other Important Information
- d. SAWS 2 Plus, Application Form
- e. CW 2.1 NA, CW 2.1Q, Child Support Notice and Agreement/Questionnaire (one for each absent parent)
- f. PUB 13, Your Rights Pamphlet
- g. PUB 183, CHDP Medical and Dental Check-ups (generated by CalWIN when answering 'yes' to CHDP brochure question)
- h. FC NRLG 1, Non Related Legal Guardian Statement
- i. FC NRLG Fact Sheet
- j. IM 3 FC, School Verification, if appropriate
- k. FC 1683, Lump Sum Notice
- l. GEN 22, Documentation of Language

The EW will need to obtain the following additional verification:

- m. Verification of child's SSN, if not already on file
- n. Request for child's birth/income/resource verification
- o. ID verification for the Legal Guardian

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E. Payment for Legal Guardians

STEP	WHO	ACTION
1.	Contact	<ul style="list-style-type: none"> At initial contact, the Legal Guardian (LG) is referred to the appropriate District Foster Care Unit.
2.	Eligibility Clerk	<ul style="list-style-type: none"> The Unit Clerk or Worker of the Day will refer the LG to the next Intake Worker to be assigned the NRLG application
3.	Intake EW	<ul style="list-style-type: none"> Provides the NRLG Intake Packet to the LG and appointment letter (either in person or by mail) Sets up an appointment with the LG for a fact-to-face interview Sends a 'Request for Guardianship Home Assessment', FC 33 to the appropriate ATM to open a case in CWS/CMS The ATM will forward the FC 33 to the assigned Social Casework Assistant (SCA) Provides the necessary information to the Eligibility Clerk in order to open a pending intake application in CalWIN Requests from the Clerical Specialist a completed SOC 158A for the application packet
4.	Eligibility Clerk	<ul style="list-style-type: none"> Registers the application
5.	Intake EW	<ul style="list-style-type: none"> Completes the interview Grants the NRLG '40' application from the date the SAWS 1 was signed or the date of the Guardianship Court Order (whichever is later) when all eligibility factors have been met Sets tickler for a reminder to SW to make home visit every 6 months <p>NOTE: The EW is allowed to grant the case prior to receiving the completed FC 33</p>
6.	Social Casework Assistant (SCA)	<ul style="list-style-type: none"> Receives a copy of the Legal Guardianship court order Interviews the LG Completes an assessment Returns a completed FC 33 to the EW when the home has been assessed

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F. RV's

The SCA cannot complete the FC 2 for the legal guardian of a non-dependent child. The legal guardian is required to cooperate. If the Legal Guardian fails to complete the RV, the Foster Care case must be discontinued.

The following chart clarifies potential program eligibility and RV cooperation requirements for Legal Guardians:

	Potentially Eligible for Federal AFDC-FC	Potentially Eligible for State AFDC-FC	Potentially Eligible for CalWORKs	Legal Guardian Must Cooperate at RV
Dependent with Legal Guardian RELATIVE	YES	NO	YES	AFDC-FC-NO CalWORKs-YES
Dependent with Legal Guardian NON-RELATIVE	YES	YES	NO	NO
Non-Dependent with Legal Guardian RELATIV	NO	NO	YES	YES
Non-Dependent with Legal Guardian Non-Relative	NO	YES	NO	YES

III. REFERENCE

EAS 45-201.1 through EAS 45-201.3, General AFDC Requirements

EAS 45-203, Authority for Placement

EAS 45-203.611, Child with NRLG

EAS 45-301.213, State AFDC-FC Program

EAS 45-302.24, Child Living with NRLG

Probate Code §1514

Welfare and Institutions Code §360 or §366.25(e)

ACL 17-82, Ramirez v. Lighthourne; Sacramento County Superior Court Case No. 34-2015-80002216

Family Code sections 3445 and 3446

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IV. FORMS

- SOC 369, Agency-Relative Guardianship Disclosure
- SAWS 2A, Rights, Responsibilities and Other Important Information
- CW 2.1 NA, Child Support Notice and Agreement
- CW 2.1Q, Child Support Questionnaire
- PUB 13, Your Rights Pamphlet
- SAWS 1, Initial Application for CalFresh, Cash Aid, and/or Medi-Cal/Health Care Programs
- SAWS 2 Plus, Application
- FC NRLG 1, Non Related Legal Guardian Statement
- FC NRLG, Fact Sheet
- FC 1683, Lump Sum Notice
- GEN 22, Documentation of Language
- PUB 183, Medical and Dental Health Check-Ups (CHDP)