

Permanent Connections for Children in Foster Care

A Fact Sheet Prepared by the Youth Law Center

An important goal of the California child welfare system is to ensure that no child leaves foster care without a lifelong connection to a committed adult.¹ Children in foster care have legal rights that are designed to help them maintain connections with people who are important to them.

Do children in foster care have a right to visitation with their parents?

The court will determine whether the child can visit with his or her parents. When the court places a child into foster care and orders reunification services, it must provide for visitation between the child and his or her parent(s) or guardian unless visitation would jeopardize the safety of the child.² Visitation must be as frequent as possible, consistent with the well-being of the child.³ The social worker must arrange the visits and include the schedule of the planned contacts and visits in the case plan.⁴

Do children in foster care have a right to contact family members?

Children in foster care have the right to contact siblings and other family members, to make and receive confidential telephone calls, and to send and receive unopened mail unless prohibited by the court.⁵ Care providers, such as foster parents and group homes must inform youth of their rights and ensure that youth are accorded these rights.⁶

The court must specifically consider whether the best interest of the child will be served by granting visitation rights to the child's grandparents and clearly specify those rights to the social worker.⁷ In addition, the court reports prepared for the disposition hearing must include a discussion of whether the best interest of the child would be served by granting reasonable visitation rights to the child's grandparents in order to maintain and strengthen the child's family relationships.⁸ For more information, see the Youth Law Center Fact Sheet on Grandparent Visitation Rights in Foster Care.

Do children in foster care have a right to placement with relatives?

Although children do not have an absolute right to placement with relatives, relatives and nonrelative extended family members who are able and willing to care for a child must be

¹ Cal. Welf. & Inst. Code § 16500.1(b)(11).

² Cal. Welf. & Inst. Code § 362.1(a)(1).

³ *Id.*

⁴ California Department of Social Services, Manual of Policies and Procedures (MPP) 31-206.32, 31-340.

⁵ Cal. Welf. & Inst. Code § 16001.9(a)(6), (7) & (9). In addition, children ten years old or older who are taken into emergency custody have the right to call a parent, guardian, or responsible relative. Cal. Welf. & Inst. Code § 308(b).

⁶ See, e.g., 22 Cal. Code Regs. §§ 83072(a)-(c) (small family homes), 84072(a)-(c) (group homes), 86572(a) (crisis nurseries), & 89372 (foster family homes.)

⁷ Cal. Welf. & Inst. Code § 361.2(h).

⁸ Cal. Welf. & Inst. Code § 358.1(c).

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considered first.⁹ For more information, see the Youth Law Center Fact Sheet on Relative Caregivers.

Do children in foster care have a right to live with their brothers and sisters?

Siblings should be placed together unless it is not in the best interest of one or more of them.¹⁰ If siblings are not placed together in the same home, the social worker must explain why and what efforts are being made to place them together, or why those efforts are not appropriate. This information must be included in the case plan and any permanent plan and in court reports; it must also be considered by the court in status review hearings.¹¹

What if a child cannot live with his or her brothers and sisters?

Children in foster care have the right to contact and visit their brothers and sisters unless prohibited by the court.¹²

When the court places a child in foster care and orders reunification services, the order must include visitation among siblings unless the court finds, by clear and convincing evidence, that sibling interaction is detrimental to either child.¹³ If the court does not order reunification services, the child's permanent plan must include information about the child's relationship with his or her siblings and the impact that relationship has on placement and visitation.¹⁴ Information about court ordered or authorized sibling interaction must be made available to the child's care giver as soon as possible after the court order is made.¹⁵ Information about the sibling relationship and the frequency and nature of sibling visits is considered at each periodic court review.¹⁶ When the court finds that sibling contact would be detrimental and suspends interaction between siblings, it must review the reasons for its order at each review.¹⁷

The child welfare agency has a responsibility to provide sibling visitation. When it is not possible for siblings to live together, the child welfare agency must make a diligent effort to provide for ongoing and frequent interaction among siblings, unless the court determines that sibling interaction is detrimental, and include those arrangements in the child's case

⁹ Calif. Welf. & Inst. Code §§ 309(d), 319(f) & 361.3; MPP 31-420.21.

¹⁰ Cal. Welf. & Inst. Code §§ 306.5, 16002(a).

¹¹ Cal. Welf. & Inst. Code §§ 306.5 (emergency removal), 362.1(a)(2) (visitation orders), 366(a)(1)(D)(i)(III) (periodic status review), 366.1(f)(1)(C) (court report), 16002(b) (general sibling placement provisions), 16501.1(f)(9) (case plans); MPP 31-206.311 (case plans.)

¹² Cal. Welf. & Inst. Code §§ 362.1(a)(2), 16001.9(a)(7); 22 Cal. Code Regs. §§ 83072(c)(1)(A) (small family homes), 84072(c)(5)(B) & (20) (group homes), 86572(c)(10) & (12) (crisis nurseries), & 89372(c)(12) (foster family homes.)

¹³ Cal. Welf. & Inst. Code § 362.1(a)(2).

¹⁴ Cal. Welf. & Inst. Code § 362.1(b).

¹⁵ Cal. Welf. & Inst. Code § 16002(f).

¹⁶ Cal. Welf. & Inst. Code § 366(a)(1)(D)(i).

¹⁷ Cal. Welf. & Inst. Code §§ 366(a)(1)(D)(VI), 16002(b).

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plan.¹⁸ Information about the frequency and nature of the visits between siblings must also be included in each court report.¹⁹

What if parental rights are terminated?

If parental rights are terminated, the child welfare agency must provide for ongoing and frequent interaction among siblings in the permanent plan.²⁰

What if the child is placed for adoption?

If the child is placed for adoption, the adoption agency must take steps to facilitate ongoing sibling contact unless the court determines that sibling interaction is detrimental to the child.²¹ Adoption agencies must include the importance of sibling relationships in training for adoptive parents, along with counseling on how to maintain sibling relationships. The agency must also provide the prospective adoptive parents with information about the child's siblings and encourage the adoptive parents to make a plan to facilitate post-adoptive contact between the adopted child and his or her siblings.²²

With the consent of the adoptive parents, the court may include provisions for the adoptive parent(s) to facilitate post adoptive sibling contact in the final adoption order.²³ The order may be enforced by the court, but violation of the order will not affect the validity of the adoption or impair the ability of the adoptive family to move, either within or outside California.

The adoptive parents may terminate sibling contact if they determine that it poses a threat to the health, safety, or well being of the adopted child; however, they must notify the court within ten days, specifying the reasons why continued contact poses a threat.²⁴

What about other people who are important to the child?

Children in foster care have a right to maintain connections with people who are important to them as long as it is in their best interest. Specifically, they have the right to have social contacts with people outside the foster care system, such as teachers, church members, mentors, and friends.²⁵ They also have the right to engage in age appropriate social, extra curricular, and enrichment activities.²⁶

¹⁸ Cal. Welf. & Inst. Code § 16002(b).

¹⁹ Cal. Welf. & Inst. Code §§ 366(a)(1)(D)(i)(IV) (periodic status review), 366.1(f)(1)(D) (reports).

²⁰ Cal. Welf. & Inst. Code § 16002(b).

²¹ Cal. Welf. & Inst. Code § 16002(e).

²² Cal. Welf. & Inst. Code § 16002(e).

²³ Cal. Welf. & Inst. Code § 366.29(a).

²⁴ Cal. Welf. & Inst. Code § 366.29(b).

²⁵ Cal. Welf. & Inst. Code § 16001.9(a)(15); 22 Cal. Code Regs. §§ 83072(c)(22) (small family homes), 84072(c)(27) (group homes), 86572(c)(9) (crisis nurseries), 89372(c)(10) (foster family homes).

²⁶ Cal. Welf. & Inst. Code §§ 362.05, 16001.9(a)(13).

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In developing the child's case plan, the social worker must ask any child who is ten years old or older and who has been in out-of-home placement six months or longer, to identify individuals who are important to him or her. The social worker may ask any other child to provide that information, as appropriate. The social worker must also make efforts to identify other individuals who are important to the child, consistent with the child's best interest.²⁷

The social worker must include information about individuals who are important to the child in the court reports filed prior to status review hearings,²⁸ and the court must determine whether the child welfare agency has made efforts to maintain the child's relationships with these individuals.²⁹ Whenever the court orders a child who is ten years old or older to remain in long term foster care, it must determine whether the child welfare agency has made reasonable efforts to maintain the child's relationships with individuals who are important to the child, consistent with the child's best interest, and may make any appropriate order to ensure that those relationships are maintained.³⁰

Social workers should receive training about the importance of maintaining relationships with individuals who are important to a child in out-of-home placement, including methods to identify those individuals, consistent with the child's best interest (including, but not limited to, asking the child about individuals who are important,) and ways to maintain and support those relationships.³¹

How can children in foster care exercise these rights?

Most children should have an attorney appointed to represent them and who should talk to them and help them exercise their rights in and outside of court. In addition, children can participate in their court hearings and their case plans. If they are having difficulty or need additional assistance, they can talk with their social worker or a CASA or they can contact the Foster Care Ombudsman for help. If a care provider is interfering with their rights, they can file a complaint with Community Care Licensing or the county.

Court hearings

In California, every child has the right to be present at his or her juvenile court hearings³² and to make a statement to the court.³³ Children 10 years old or older have the right to written notice of dependency hearings, and if the child is not present in court, the court must determine whether the child was properly notified.³⁴ Children in foster care also have the right to notice of juvenile court dependency hearings concerning their siblings.³⁵

²⁷ Cal. Welf. & Inst. Code §§ 366.1(g), 16501.1(i).

²⁸ Cal. Welf. & Inst. Code § 366.1(g).

²⁹ Cal. Welf. & Inst. Code § 366(a)(1)(B).

³⁰ Cal. Welf. & Inst. Code §§ 366.21(g)(3) (status review hearings), 366.22(a) (permanency review hearing.)

³¹ Cal. Welf. & Inst. Code § 16206(c)(12).

³² Cal. Welf. & Inst. Code §§ 349 & 16001.9(17); California Rules of Court Rule 5.530(b).

³³ Cal. Welf. & Inst. Code §§ 399 & 16001.9(17).

³⁴ Cal. Welf. & Inst. Code §§ 290.1 – 295.

³⁵ Cal. Welf. & Inst. Code §§ 291(a)(5), 292(a)(5), 293(a)(5), 294(a)(4), & 295(a)(5).

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Case plans

Legal requirements for case plans,³⁶ transitional independent living plans,³⁷ court reports,³⁸ and court reviews³⁹ are designed to ensure effective permanency planning occurs and that youth are able to maintain connections with individuals who are important to them. California foster youth have the right to be involved in the development of their case plans, including plans for permanent placement.⁴⁰

Social workers have a responsibility to solicit the youth's input on his or her future and discuss current and future placement plans and progress with the youth.⁴¹ All foster youth must be given a meaningful opportunity to participate in the development of these plans and to receive information about them, including any changes to a plan; youth twelve years old and older must be given an opportunity to review, sign and receive a copy of the plan.⁴² When preparing a transitional independent living plan for older youth, the child welfare agency should convene individuals who the youth has identified as being important to him or her and include information from those individuals in the plan.⁴³

Case Workers, CASAs, Attorneys, Advocates, and Supporters

Children in foster care have the right to contact their social worker, attorney, CASA, and other advocates and supporters.⁴⁴ Any of these individuals may be able to help the child make connections, resolve problems, or exercise his or her rights.

Foster Care Ombudsman

The Office of the Foster Care Ombudsman is an independent resource for reviewing issues concerning children and youth in foster care and those who care about them. The Ombudsman Office receives complaints and concerns from a wide range of individuals including foster youth, parents, relatives, CASAs, attorneys, social workers, and many other interested parties. Foster children or others with concerns about the care, services or placement of children or youth in foster care, can call 1-877-846-1602 or file a written complaint using the Complaint Form on the Foster Care Ombudsman's web site.⁴⁵

³⁶ Cal. Welf. & Inst. Code §§ 16501.1(f)(14) & (i); (MPP) 31-206 & 230.

³⁷ Cal. Welf. & Inst. Code § 10609.4(b)(1)(E); MPP 31-236 & 525.

³⁸ Cal. Welf. & Inst. Code §§ 365 (periodic reports), 366.1 (supplemental reports), & 391(b) (termination of jurisdiction report.)

³⁹ Cal. Welf. & Inst. Code §§ 366(a), 366.21, 366.22, 366.26(c), 366.3(e) & (f), & 391.

⁴⁰ Cal. Welf. & Inst. Code § 16001.9(a)(19); California Rules of Court Rules 5.710(e)(6) (six month reviews) 5.715(c)(7) (twelve month reviews), 5.720(c)(6) (eighteen month reviews), & 5.725(e)(7) (permanent plan.)

⁴¹ MPP 31-320.114.

⁴² Cal. Welf. & Inst. Code §§ 16001.9(a)(19) & 16501.1(f)(12).

⁴³ Cal. Welf. & Inst. Code § 10609.4 (b)(1)(E) & (G).

⁴⁴ Cal. Welf. & Inst. Code § 16001.9(a)(6); 22 Cal. Code Regs. §§ 83072(c)(15) (small family homes), 84072(c)(20) (group homes), 86572(c)(11) (crisis nurseries), & 89372(c)(13) (foster family homes).

⁴⁵ <http://www.fosteryouthhelp.ca.gov>.

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All children in foster care have the right to contact the Foster Care Ombudsman, to speak with the Ombudsman staff confidentially, and to be free from threats or punishments from making complaints.⁴⁶

Facility Complaints

If the child's care provider, such as a foster parent or group home staff member, is violating the child's rights, the child, or someone on the child's behalf, can file a complaint with community care licensing or the county.⁴⁷ Examples of these violations might include: prohibiting a child from visiting with family members or friends,⁴⁸ interfering with or reading the child's mail, or refusing to let the child make confidential phone calls.⁴⁹

Children in licensed foster care placements have the right to contact Community Care Licensing, to speak with licensing staff confidentially, and to be free from threats or punishments from making complaints.⁵⁰ Any limitations a foster care facility imposes on long distance calls or as part of an approved discipline program may not restrict calls to Community Care Licensing.⁵¹

Information about Community Care Licensing, including a listing of Children's Residential Program offices and contact information is available on the CCL web site.⁵²

⁴⁶ Cal. Welf. & Inst. Code § 16001.9(a)(8); 22 Cal. Code Regs. §§ 83072(c)(16) (small family homes), 86572(c)(13) (crisis nurseries), 84072(c)(21) (group homes), & 89372(c)(15) (foster family homes.)

⁴⁷ Some counties contract with the California Department of Social Services to assume specific licensing responsibilities. Calif. Health & Safety Code § 1511. The counties also approve the homes of relatives and nonrelative extended family members (NREFM). Calif. Welf. & Inst. Code §§ 309(d) (detention), 319(f) (placement), 362.7 (NREFM). If you are not sure who is responsible for a facility, contact the local Community Care Licensing office. They can tell you who to contact if they are not responsible for investigating complaints about the placement.

⁴⁸ Cal. Welf. & Inst. Code § 16001.9(a)(6) & (7); 22 Cal. Code Regs. §§ 83072(c)(1) (small family homes), 84072(c)(5) (group homes), 86572(c)(12) (crisis nurseries), & 89372(c)(12) & (14) (foster family homes.)

⁴⁹ Cal. Welf. & Inst. Code § 16001.9(a)(9); 22 Cal. Code Regs. §§ 83072(c)(6) (small family homes), 84072(c)(11) & (12) (group homes), 86572(c)(14) (crisis nurseries), & 89372(c)(16) (foster family homes.)

⁵⁰ Cal. Welf. & Inst. Code § 16001.9(a)(8); 22 Cal. Code Regs. §§ 83072(c)(16) (small family homes), 84072(c)(21) (group homes), 86572(c)(13) (crisis nurseries), & 89372(c)(15) foster family homes.)

⁵¹ 22 Cal. Code Regs. §§ 83072(c)(6)(C) (small family homes) & 84072(c)(11)(C) (group homes.)

⁵² <http://cclid.ca.gov>.